



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>

REESE LIBRARY
OF THE
UNIVERSITY OF CALIFORNIA.

Class



23-11-1918

THE
GENERAL MUNICIPAL CODE,

ETC., ETC.,

AS PRESENTED BY THE REVISION COMMISSIONERS,

AND PASSED BY THE

Legislature of the State of New York,

WITH AMENDMENTS.

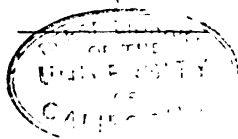
WITH COMPLETE SETS OF FORMS

AND

Full Index Following Each Law

PREPARED BY

WILLIAM H. SILVERNAIL.



BANKS & BROTHERS.

NEW YORK.

ALBANY.

1896.

JS451
.N7A5

REESE

COPYRIGHT, 1893,
BANKS & BROTHERS.

COPYRIGHT, 1894,
BANKS & BROTHERS.

COPYRIGHT, 1895,
BANKS & BROTHERS.

COPYRIGHT, 1896,
BANKS & BROTHERS.

PREFACE.

THIS work is intended to supply a need, existing at present, of a reliable manual for county and town officers in this State. Prior manuals, however good when first written, are now misleading from the fact that the body of the text has remained unchanged, while Code amendments and recent enactments have been inserted or added. The additions and text, for this reason, are found to be contradictory and render it impossible for a person, who consults the manual, to ascertain what is really the law. But this work presents the existing laws with all subsequent amendments and acts bearing in any manner upon the subject, thus avoiding all repealed and overruled matter. Ready reference to any provision is made by both a separate and a general index. Full, complete and appropriate forms, corrected and prepared for the present law, accompany each act, when necessary. In its present form, the work is exactly adapted to the use of all county and town officers. The county, town, highway, election and excise laws, with forms fitted to meet every occasion, should be in the hands of supervisors, boards of supervisors, town boards, constables, commissioners and overseers of highways, election and excise officers, etc., as these laws define their powers and duties, and instruct them in the mode of transacting their business. The other acts contained in this work are useful for frequent reference and consultation.

A word may be necessary in reference to the arrangement. On next page will be found a table showing the order in which the parts have been adjusted. A separate index, more in detail than the general index, follows each law, and constitutes, with the law, supplemental acts, and forms, a complete unit. The forms under each law are kept separate and inserted in their appropriate connection. At the end of the book, a general index of the whole subject, and a general index of all the forms, are placed for purposes of general reference.

SLINGERLANDS, N. Y., Nov. 30, 1893.

EDITOR.

ORDER OF ARRANGEMENT OF LAWS, ETC., CONTAINED IN THIS WORK.

- I. CHAPTER 677 OF 1892:—
STATUTORY CONSTRUCTION LAW.
INDEX.
- II. CHAPTER 687 OF 1892, WITH AMENDMENTS OF 1893:—
GENERAL CORPORATION LAW.
FORMS.
INDEX.
- III. CHAPTER 678 OF 1892, WITH AMENDMENTS OF 1893:—
STATE LAW.
INDEX.
- IV. CHAPTER 683 OF 1892, WITH AMENDMENTS OF 1893:—
EXECUTIVE LAW.
INDEX.
- V. CHAPTER 682 OF 1892, WITH AMENDMENTS OF 1893:—
LEGISLATIVE LAW.
INDEX.
- VI. CHAPTER 227 OF 1893:—
PUBLIC BUILDINGS LAW.
INDEX.
- VII. CHAPTER 685 OF 1892, WITH AMENDMENTS OF 1893:—
GENERAL MUNICIPAL LAW.
INDEX.
- VIII. CHAPTER 686 OF 1892, WITH AMENDMENTS OF 1893:—
COUNTY LAW.
SUPPLEMENTAL ACTS RELATING TO COUNTIES.
FORMS UNDER COUNTY LAW.
INDEX.

ORDER OF ARRANGEMENT OF LAWS, ETC.

**IX. CHAPTER 569 OF 1890, WITH AMENDMENTS OF 1891, 1892,
AND 1893 :—**

TOWN LAW.

SUPPLEMENTAL ACTS RELATING TO TOWNS.

FORMS UNDER TOWN LAW.

INDEX.

X. CHAPTER 681 OF 1892, WITH AMENDMENTS OF 1893 :—

PUBLIC OFFICERS LAW.

SECTIONS OF PENAL CODE APPLICABLE.

INDEX.

**XI. CHAPTER 568 OF 1890, WITH AMENDMENTS OF 1891, 1892
AND 1893 :—**

HIGHWAY LAW.

SUPPLEMENTAL LAWS RELATING TO HIGHWAYS.

FORMS UNDER HIGHWAY LAW.

INDEX.

XII. CHAPTER 680 OF 1892, WITH AMENDMENTS OF 1893 :—

ELECTION LAW.

ANNOTATIONS.

FORMS UNDER ELECTION LAW.

PENAL PROVISIONS RELATING THERETO.

SUPPLEMENTAL ACTS RELATING TO ELECTION LAW.

INDEX.

XIII. CHAPTER 401 OF 1892, WITH AMENDMENTS OF 1893 :—

EXCISE LAW.

SUPPLEMENTAL ACTS RELATING TO EXCISE LAW.

FORMS UNDER EXCISE LAW.

INDEX.

XIV. GENERAL INDEX TO ALL THE LAWS.

GENERAL INDEX TO FORMS.

CHAP. 677.

AN ACT relating to the construction of statutes constituting chapter one of the general laws.

APPROVED by the Governor May 18, 1892. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

CHAPTER I OF THE GENERAL LAWS.

THE STATUTORY CONSTRUCTION LAW.

- SECTION**
1. Short title ; extent of application.
 2. Property.
 3. Real property.
 4. Personal property.
 5. Person.
 6. Judge.
 7. Lunacy ; idiocy.
 8. Gender ; number ; tense.
 9. Heretofore ; hereafter ; now.
 10. Last ; preceding ; next ; following.
 11. Folio.
 12. Writing ; signature.
 13. Seal.
 14. Oath ; affidavit ; swear.
 15. Acknowledge ; acknowledgment.
 16. Bond ; undertaking.
 17. Choose ; elect ; appoint.
 18. Board composed of one person.
 19. Meeting ; quorum ; powers of majority.
 20. Service of notice upon board or body.
 21. County clerk • register.
 22. Village.
 23. State.
 24. Public holiday ; half-holiday.
 25. Year.
 26. Month.
 27. Day ; mode of computing days ; night-time.
 28. Standard time.
 29. Civil and criminal codes.
 30. Laws of England and of the colony of New York.
 31. Limiting the effect of repealing statutes.
 32. Existing laws included in revision not to be construed as new enactments.

THE STATUTORY CONSTRUCTION LAW.

SECTION 33. Effect of revision upon laws passed at same session or before revision takes effect.

34. Alterations of titles and head notes.

35. Laws repealed.

36. Time of taking effect.

SECTION 1. Short title; extent of application.—This chapter shall be known as the statutory construction law, and is applicable to every statute unless its general object, or the context of the language construed, or other provisions of law indicate that a different meaning or application was intended from that required to be given by this chapter.

§ 2. Property.—The term property includes real and personal property.

§ 3. Real property.—The term real property includes real estate, lands, tenements and hereditaments, corporeal and incorporeal.

§ 4. Personal property.—The term personal property includes chattels, money, things in action, and all written instruments themselves, as distinguished from the rights or interests to which they relate, by which any right, interest, lien or incumbrance in, to or upon property, or any debt or financial obligation is created, acknowledged, evidenced, transferred, discharged or defeated, wholly or in part, and everything, except real property, which may be the subject of ownership. The term chattels includes goods and chattels.

§ 5. Person.—The term person includes a corporation and a joint stock association. When used to designate a party whose property may be the subject of any offense, the term person also includes the state, or any other state, government or country which may lawfully own property in the state.

§ 6. Judge.—The term judge includes every judicial officer authorized, alone or with others, to hold or preside over a court of record.

§ 7. Lunacy; idiocy.—The terms lunatic and lunacy include every kind of unsoundness of mind except idiocy.

§ 8. Gender; number; tense.—Words of the masculine gender include the feminine and the neuter, and may refer to a corporation, or to a board or other body or assemblage of persons; and, when the sense so indicates, words of the neuter gender may refer to any gender. The term men includes boys and the term women includes girls.

Words in the singular number include the plural, and in the plural number include the singular.

Words in the present tense include the future.

§ 9. Heretofore; hereafter; now.—Each of the terms, hereto-

THE STATUTORY CONSTRUCTION LAW.

fore, and hereafter, in any provision of a statute, relates to the time such provision takes effect. The term now in any provision of a statute referring to other laws in force, or to persons in office, or to any facts or circumstances as existing, relates to the laws in force, or the person in office, or to the facts or circumstances, existing, respectively, immediately before the taking effect of such provision.

§ 10. **Last; preceding; next; following.**—A reference to the last or preceding section, or other provision of a statute, means the section or other division immediately preceding, and a reference to the next or following section or other division of statute means the section or other division immediately following.

§ 11. **Folio.**—A folio is one hundred words, counting as a word each figure necessarily used.

§ 12. **Writing; signature.**—The terms writing and written include every legible representation of letters upon a material substance, except when applied to the signature of an instrument. The term signature includes any memorandum, mark or sign, written or placed upon any instrument or writing with intent to execute or authenticate such instrument or writing.

§ 13. **Seal.**—The private seal of a person, other than a corporation, to any instrument or writing shall consist of a wafer, wax or other similar adhesive substance affixed thereto, or of paper or other similar substance affixed thereto, by mucilage or other adhesive substance, or of the word "seal," or the letters "L. S.," opposite the signature.

A seal of a court, public officer or corporation may be impressed directly upon the instrument or writing to be sealed, or upon wafer, wax or other adhesive substance affixed thereto, or upon paper or other similar substance affixed thereto by mucilage or other adhesive substance. An instrument or writing duly executed, in the corporate name of a corporation, which shall not have adopted a corporate seal, by the proper officers of the corporation under their private seals, shall be deemed to have been executed under the corporate seal.

§ 14. **Oath; affidavit; swear.**—The terms oath and affidavit include every mode authorized by law of attesting the truth of that which is stated.

The term swear includes every mode authorized by law of administering an oath. When an affidavit is authorized or required it may be sworn to before any officer authorized by law to take the acknowledgment of deeds in this state, unless a particular officer is specified before whom it is to be taken.

§ 15. **Acknowledge; acknowledgment.**—When the execution of any instrument or writing is authorized or required by law to be

THE STATUTORY CONSTRUCTION LAW.

acknowledged, or to be proven so as to entitle it to be filed or recorded in a public office, the acknowledgment may be taken or the proof made before any officer then and there authorized to take the acknowledgment or proof of the execution of a deed of real property to entitle it to be recorded in a county clerk's office, and shall be made and certified in the same manner as such acknowledgment or proof of such deed.

The term acknowledge and acknowledgment, when used with reference to the execution of an instrument or writing other than a deed of real property, includes a compliance with the provisions of this section by either such proof or acknowledgment.

§ 16. **Bond ; undertaking.**— A provision of law authorizing or requiring a bond to be given shall be deemed to have been complied with by the execution of an undertaking to the same effect.

§ 17. **Choose ; elect ; appoint.**— The term choose includes elect and appoint.

§ 18. **Board composed of one person.**— A reference to several officers of a municipal corporation holding the same office, or to a board of such officers, shall be deemed to refer to the single officer holding such office, when but one person is chosen to fill such office in pursuance of law.

§ 19. **Meeting ; quorum ; powers of majority.**— Whenever three or more public officers are given any power or authority, or three or more persons are charged with any public duty to be performed or exercised by them jointly or as a board or similar body, a majority of all such persons or officers at a meeting duly held at a time fixed by law, or by any by-law duly adopted by such board or body, or at any duly adjourned meeting of such meeting, or at any meeting duly held upon reasonable notice to all of them, may perform and exercise such power, authority or duty, and if one or more of such persons or officers shall have died or have become mentally incapable of acting, or shall refuse or neglect to attend any such meeting, a majority of the whole number of such persons or officers shall be a quorum of such board or body, and a majority of a quorum, if not less than a majority of the whole number of such persons or officers may perform and exercise any such power, authority or duty. Any such meeting may be adjourned by a less number than a quorum. A recital in any order, resolution or other record of any proceeding of such a meeting that such meeting had been so held or adjourned, or that it had been held upon such notice to the members, shall be presumptive evidence thereof.

§ 20. **Service of notice upon body or board.**— When a notice

THE STATUTORY CONSTRUCTION LAW.

is required to be given to a board or body service of such notice upon the clerk or chairman thereof shall be sufficient.

§ 21. **County clerk; register.**—Any act done in pursuance of law by the register of a county shall be deemed to be a compliance with any provision of law authorizing or requiring such act to be done by the county clerk of such county, and any instrument or writing filed, entered or recorded in pursuance of law in the office of a register of a county, shall be deemed to be a compliance with any provision of law authorizing or requiring such paper to be filed, entered or recorded, as the case may be, in the office of the clerk of such county.

§ 22. **Village.**—The term village means an incorporated village.

§ 23. **State; territory.**—The term state, when used generally to include every state of the United States, includes also every territory of the United States and the District of Columbia. The term territory when used generally to include every territory of the United States, includes also the District of Columbia.

§ 24. **Public holiday; half-holiday.**—The term holiday includes the following days in each year: The first day of January, known as New Year's day; the twenty-second day of February, known as Washington's birthday; the thirtieth day of May, known as memorial day; the fourth day of July, known as independence day; the first Monday of September, known as labor day, and the twenty-fifth day of December, known as Christmas day, and if either of such days is Sunday, the next day thereafter; each general election day and each day appointed by the president of the United States or by the governor of this state as a day of general thanksgiving, general fasting and prayer, or other general religious observance.

The term half-holiday includes the period from noon to midnight of each Saturday which is not a holiday.

§ 25. **Year.**—Time shall continue to be computed in this state according to the Gregorian or new style. The first day of each year after the year seventeen hundred and fifty-two is the first day of January, according to such style. For the purpose of computing and reckoning the days of the year in the same regular course in the future, every year, the number of which in the Christian era is a multiple of four, is a bissextile or leap year consisting of three hundred and sixty-six days, unless such number of the year is a multiple of one hundred and the first two figures thereof treated as a separate number is not a multiple of four, and every year which is not a leap year is a common year consisting of three hundred and sixty-five days.

The term year in a statute, contract, or any public or private instrument, means three hundred and sixty-five days, but the added day of

THE STATUTORY CONSTRUCTION LAW.

a leap year and the day immediately preceding shall for the purpose of such computation be counted as one day.

In a statute, contract or public or private instrument, the term year means twelve months, the term half-year, six months, and the term a quarter of a year, three months.

§ 26. **Month.**—In a statute, contract or public or private instrument, unless otherwise provided in such contract or instrument or by law, the term month means a calendar month and not a lunar month. A number of months after or before a certain day shall be computed by counting such number of calendar months from such day, exclusive of the calendar month in which such day occurs, and shall include the day of the month in the last month so counted having the same numerical order in days of the month as the day from which the computation is made, unless there be not so many days in the last month so counted, in which case the period computed shall expire with the last day of the month so counted.

§ 27. **Day ; mode of computing day ; night-time.**—A calendar day includes the time from midnight to midnight. Sunday or any day of the week specifically mentioned means a calendar day. A number of days specified as a period from a certain day within which or after or before which an act is authorized or required to be done means such number of calendar days exclusive of the calendar day from which the reckoning is made. Sunday or a public holiday other than a half-holiday must be excluded from the reckoning if it is the last day or an intervening day of any such period of two days. In computing any specified number of days, weeks or months from a specified event, the day upon which the event happens is deemed the day from which the reckoning is made. The day from which any specified number of days, weeks or months of time is reckoned shall be excluded in making the reckoning.

Night-time includes the time from sunset to sunrise.

§ 28. **Standard time.**—The standard time throughout this state is that of the seventy-fifth meridian of longitude west from Greenwich, and all courts and public officers, and legal and official proceedings, shall be regulated thereby. Any act required by or in pursuance of law to be performed at or within a prescribed time, shall be performed according to such standard time.

§ 29. **Civil and Criminal Codes.**—The term Civil Code means the Code of Civil Procedure. The term Criminal Code means the Code of Criminal Procedure.

§ 30. **Laws of England and of the colony of New York.**—A statute of England or Great Britain shall not be deemed to have had

THE STATUTORY CONSTRUCTION LAW.

any force or effect in this state since May 1, 1788. Acts of the legislature of the colony of New York shall not be deemed to have had any force or effect in this state since December 29, 1828.

The resolutions of the congress of such colony and of the convention of the state of New York, shall not be deemed to be the laws of this state hereafter.

§ 31. **Limiting the effect of repealing statutes.**—The repeal hereafter or by this chapter of any provision of a statute, which repeals any provision of a prior statute, does not revive such prior provision. The repeal hereafter or by this chapter of any provision of a statute, which amends a provision of a prior statute, leaves such prior provision in force unless the amendatory statute be a substantial re-enactment of the statute amended. The repeal of a statute or part thereof shall not affect or impair any act done or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time such repeal takes effect, but the same may be asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if such repeal had not been effected; and all actions and proceedings, civil or criminal, commenced under or by virtue of any provision of a statute so repealed, and pending immediately prior to the taking effect of such repeal, may be prosecuted and defended to final effect in the same manner as they might if such provisions were not so repealed.

§ 32. **Existing laws included in revision not to be construed as new enactments.**—The provisions of any chapter of the revision of the general laws, of which this chapter is a part, so far as they are substantially the same as those of laws existing at the time such chapter takes effect, shall be construed as a continuation of such laws, modified or amended according to the language employed in such provisions, and not as new enactments. References in laws not repealed to provisions of law which are incorporated into any such chapter and repealed shall be construed as applying to the provisions so incorporated.

§ 33. **Effect of revision upon laws passed at same session or before revision takes effect.**—No provision of any chapter of the revision of the general laws, of which this chapter is a part, shall supersede or repeal by implication any law passed at the same session of the legislature at which any such chapter was enacted, or passed after the enactment of any such chapter and before it shall have taken effect; and an amendatory law passed at such session or at any subsequent session begun before any such chapter takes effect, shall not be deemed repealed, unless specifically designated in the repealing schedule of such chapter.

THE STATUTORY CONSTRUCTION LAW.

§ 34. **Alterations of titles and head notes.**—If the title of any article or other division of a statute, or the head note of a section shall be amended or repealed in the body of the statute, or if a new article or other division having a title, or a new section having a new head note be added to a statute, the corresponding title or head note, if any, in an abstract of contents at the beginning of the article or other division of the statute shall be deemed to be correspondingly amended or repealed, although there be no express reference thereto.

§ 35. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

§ 36. **Time of taking effect.**—This chapter shall take effect immediately.

SCHEDULE OF LAWS REPEALED.

	SECTIONS REPEALED.	IN REVISION SECTIONS.
Revised Statutes, part I, chapter 8, title 8.....	16.....	13.
Revised Statutes, part I, chapter 19, title 1.....	1, 2, 3, 4, 5.....	23, 24, 26.
Revised Statutes, part II, chapter 4, title 2.....	2.....	5.
Revised Statutes, part II, chapter 4, title 3.....	9.....	24.
Revised Statutes, part III, chapter 8, title 17.....	27.....	16.
Revised Statutes, part III, chapter 10, title 4.....	4.....	11.
Revised Statutes, part IV, chapter 2, title 8.....	16.....	13.
Laws 1828, second meeting, 51st session, chapter 20.....	9, 10, 11.....	8, 9.
Laws 1828, second meeting, 51st session, chapter 21.....	3 and 4.....	27.
Laws 1857, chapter 536.....	3.....	5.
Laws 1874, chapter 321.....	All.....	18.
Laws 1877, chapter 466.....	27.....	8.
Laws 1884, chapter 14.....	All.....	26.
Laws 1886, chapter 21.....	20.....	16.
Code of Civil Procedure.....	29, 788, 960 and subdivisions 6, 7, 8, 15, 17, 21, 22, 23 and 24 of section 3343.....	13, 25, 3, 4, 2, 7, 21, 22, 20, 12, 11.
Code of Criminal Procedure....	955, 956, 957.....	18, 12, 14.

SCHEDULE OF LAWS REPEALED.

	SECTIONS REPEALED.	IN REVISION SECTIONS.
Penal Code.....	261, 500, and subdivisions 9, 10, 11, 12, 13, 14 and 15 of section 718.	25, 2, 8, 5, 3, and 4.

INDEX TO THE STATUTORY CONSTRUCTION LAW.

A.

	Sac.
"Acknowledge," what it includes	15
Acknowledgment, how certified	15
of instrument other than a deed	15
who may take	15
"Acknowledgment," construed	15
Adhesive substance, use of, for seal	13
Adjournment by less than a majority of a public board, etc.	19
of public body, record of, as evidence	19
Administering oath, is swearing	14
Affidavit, before whom to be sworn to	14
"Affidavit," what it includes	14
Alteration and repeal of titles and head-notes	34
Application of Statutory Construction Law	1
"Appoint," included under choose	1

B.

Bissextile years, which are	25
Board composed of one person	18
Board, public, service of notice on	20
Body, public, service of notice on	20
Bond, an undertaking is a compliance	16
"Boys," included under "men"	8

C.

Calendar day, how computed	27
Chairman of board, service on, sufficient	20
"Chattels," includes goods and chattels	4
included under personal property	4
"Choose," includes elect and appoint	17
Civil Code, includes Code of Civil Procedure	29
Clerk of board, service on, sufficient	20
"Code of Civil Procedure," Civil Code includes	29
"Code of Criminal Procedure," Criminal Code includes	29
Computation of given number of days, how made	27
Congress of colony of New York, resolutions of, not deemed laws	30
Construction of existing laws, re-enacted	32
of repealing statutes	31
Convention of New York, what acts not deemed laws	30
Corporate seal, what may be used as	13

INDEX.

	Sec.
Corporation, execution of instrument under seal by officer of....	13
having no corporate seal.....	13
"Corporation" included under person.....	5
"Corporeal hereditaments" included under real property.....	3
County clerk, act of register equivalent to.....	21
"Country," when person includes.....	5
Court of record, judicial officer of, a judge.	6
Court seal, what may be used as.....	13
Criminal Code, includes Code of Criminal Procedure.....	29

D.

Day, means a calendar day.....	27
"Day," mode of computing....	27
Days, a given number of, how computed.....	27
exclusion of, in computation.....	27
Debt, is personal property.....	4
District of Columbia, when "state" or "territory" includes....	23

E.

Effect of repealing statutes.....	31
Effect of revision on laws passed at same session.....	33
"Elect," included under choose.....	17
English statutes, time limit of.....	30
Exclusion of days in computation.....	27
Existing laws, not construed as new enactments.....	33

F.

Feminine gender, how applied....	8
Figures, count of, in folios.....	11
Financial obligation as personal property.....	4
"Folio," defined.....	11
"Following," applied to sections or statutes.....	10
Future tense, included in present.....	8

G.

Gender, how applied.....	8
"Girls," included under "women".....	8
Goods and chattels included under goods.....	4
"Government," when person includes.....	5
Great Britain, time limit of laws of.....	30

H.

Half holiday, not excluded in computation.....	27
what is.....	24
Half year means six months.....	25
Head-notes and titles, alteration and repeal of.....	34
"Hereafter," relation of, defined.....	9
"Hereditaments," included under real property.....	3
"Heretofore," relation of, defined.....	9
"Holiday," what included under.....	24
when excluded in computation.....	27

INDEX.

I.

	Sec.
"Idiocy," defined.....	7
incorporated village, intended by village.....	23
"Incorporeal hereditaments," included under real property.....	3
Incumbrance upon property, when personal property.....	4
Interest in property, when personal property.....	4

J.

"Joint-stock association," included under person	5
"Judge," defined.....	6
Judicial officers, judge includes.....	6

L.

"Lands," included under real property.....	3
"Last," applied to sections or statutes.....	10
Laws of 1892, effect of revision upon	33
Laws of England, time limit of	30
Laws repealed.....	35
Leap year, extra day of, how counted.....	25
Leap years, which are.....	25
Legislature of colony of New York, time limit of acts of.....	30
Letters, when included in "writing".....	12
Lien on property, when personal property.....	4
Limitation of effect of repealing statutes.....	31
"L. S." opposite signature is seal.....	13
"Lunacy," defined	7

M.

Masculine gender, how applied.....	8
Meeting and adjournment of public body, record of, as evidence..	19
Meeting of public officers or board, adjournment of	19
"Men," includes "boys".....	8
Minutes of public body as evidence of meeting and adjournment.	19
"Money," included under personal property.....	4
Month, means calendar month.....	26
Months and month, how computed.....	26

N.

Neuter gender, what it includes.....	8
"New York colonial legislature," time limit of acts of.....	30
"Next," applied to sections or statutes.....	10
"Night-time," how computed.....	27
Notice, service of, on body or board.....	20
"Now," relation of, defined.....	9
Number of days, how computed.....	27
Number, words in singular, include plural.....	8

O.

"Oath," what it includes.....	14
Offenses, what included under term persons as applied to.....	5
Officer of corporation, use of private seal by.....	13
Official seal, what may be used	13

INDEX.

P.

	Sec.
Parties to offenses, included under term persons.....	5
"Person," defined.....	5
"Personal property," included under property.....	2
what it includes.....	4
Plural number, includes singular.....	8
Powers of majority of board of public officers, etc.....	19
"Preceding," applied to sections or statutes.....	10
Presiding officers of courts of record are judges.....	6
Present tense includes future.....	8
Private "seal," defined.....	13
use of, for corporate seal.....	13
"Property," defined.....	2
Public body or board, service of notice on.....	20
Public holiday, what included under.....	24
when excluded in computation.....	27
Public offices, etc., to observe standard time.....	28
Public officers, power of majority of board to act.....	19
seal, what may be used as.....	13
Public seal, what may be used as.....	13

Q.

Quarter year means three months.....	25
Quorum of public body.....	19

R.

"Real estate," included under real property.....	8
"Real property," included under property.....	2
what included under.....	3
Record of meeting and adjournment as evidence....	19
Register of county, act of county clerk equivalent to.....	21
Repeal of titles and head-notes.....	34
Repealed laws, table of, etc.....	35
Repealing statutes, limit of effect of.....	31
Resolution of adjournment as evidence.....	19
Resolutions of colony of New York not deemed laws.....	30
of convention of New York not deemed laws.....	30
Revision laws, when not to affect laws passed at same session ...	33
effect of, when existing statute is re-enacted.....	32
Right to property, when personal property.....	4

S.

"Seal," defined and what may be used as.....	3
set out in words constitutes a seal.....	13
of a court, what may be used as.....	13
Service of notice on body or board.....	20
"Signature," defined.....	12
when not included in writing.....	12
Singular number includes plural.....	8
Standard time, prescribed.....	28

INDEX.

	Sec.
"State," when it includes territory, etc.....	23
when person includes	5
Statutes generally to be construed with this act.....	1
limit of effect of repealing.....	81
of England, time limit of.....	30
Statutory construction law, application of.....	1
takes effect May 18.....	36
Sunday means a calendar day.....	27
when excluded in computation.....	27
"Swear," what it includes.....	14

T.

"Tenements," included under real property.....	3
Tense, words in present, include future.....	8
Territory, includes District of Columbia.....	23
"Territory," when included under state.....	23
"Things in action," included under personal property.....	4
Time, a given number of days, how computed.....	27
application of, heretofore, hereafter and now.....	9
"Time," computed according to Gregorian style.....	25
standard, prescribed.....	28
Titles and head-ntes, alteration and repeal of.....	34
Truth, every mode of attesting, is oath or affidavit.....	14

U.

Undertaking, complies with requirement of bond.....	16
Unsoundness of mind, what included under.....	7

V.

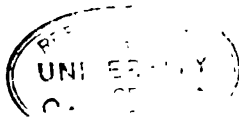
"Village," means incorporated village..... 22

W.

Wafer, use of, for seal.....	13
Wax, use of, for seal.....	13
"Written," defined.....	12
Written instruments, distinguished from what they represent....	4
"Written instruments," included under personal property.....	4
"Writing," defined.....	12
"Women," includes "girls".....	8

Y.

"Year," how computed, etc.....	25
statutory, means 365 days, etc.....	25



CHAP. 687.

AN ACT to amend the general corporation law.

APPROVED by the Governor May 18, 1892. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

The general corporation law is amended to read as follows, to take effect immediately:

CHAPTER XXXV OF THE GENERAL LAWS.

THE GENERAL CORPORATION LAW.

- SECTION 1. Short title.
2. Classification of corporations.
 3. Definitions.
 4. Qualifications of incorporators.
 5. Filing and recording certificates of incorporation.
 6. Corporations of the same name prohibited.
 7. Amended and supplemental certificates.
 8. Lost or destroyed certificates.
 9. Certificate and other papers as evidence.
 10. Prohibition of other than statutory powers.
 11. Grant of general powers.
 12. Limitation of amount of property of a non-stock corporation.
 13. Acquisition of additional real property.
 14. Acquisition of property in other states.
 15. Certificate of authority of a foreign corporation.
 16. Proof to be filed before granting certificate.
 17. Acquisition of real property in this state by certain foreign corporations.
 18. Acquisition by foreign corporations of real property in this state upon judicial sales.
 19. Prohibition of banking powers.
 20. Qualification of members as voters.
 21. Proxies.
 22. Challenges.
 23. Effect of failure to elect directors.
 24. Mode of calling special election of directors.
 25. Mode of conducting special election of directors.
 26. Qualification of voters and canvass of votes at special elections.
 27. Powers of supreme court respecting elections.
 28. Stay of proceedings in actions collusively brought.
 29. Quorum of directors and power of majority.
 30. Directors as trustees in case of dissolution.
 31. Forfeiture for non-user.
 32. Extension of corporate existence.
 33. Conflicting corporate laws.
 34. Laws repealed.
 35. Saving clause.
 36. Construction.
 37. Law revived.

SECTION 1. Short title.—This chapter shall be known as the general corporation law.

A clause reserving the right to alter, amend or repeal is omitted from this act because it is contained in section 1, art. 8, of state Constitution.

GENERAL CORPORATION LAW.

The right to sue and be sued is found in section 8, art. 8, of the state Constitution.

§ 2. Classification of corporations.—A corporation shall be either,

1. A municipal corporation,
2. A stock corporation,
3. A non-stock corporation, or
4. A mixed corporation.

A stock corporation shall be either,

1. A monied corporation,
2. A transportation corporation, or
3. A business corporation.

A non-stock corporation shall be either,

1. A religious corporation, or
2. A membership corporation.

A mixed corporation shall be either,

1. A cemetery corporation,
2. A library corporation,
3. A co-operative corporation,
4. A board of trade corporation, or
5. An agricultural and horticultural corporation.

A transportation corporation shall be either,

1. A railroad corporation, or
2. A transportation corporation other than a railroad corporation.

A membership corporation shall include benevolent orders and fire and soldiers' monument corporations.

A reference in a general law to a class of corporations described in accordance with this classification shall include all corporations theretofore formed belonging to such class.

§ 3. Definitions.—A municipal corporation includes a county, town, school district, village and city and any other territorial division of the state established by law with powers of local government.

A stock corporation is a corporation having capital stock divided into shares.

A mixed corporation is a corporation which may or may not have capital stock at its option.

A monied corporation is a corporation formed under or subject to the banking or the insurance law.

A domestic corporation is a corporation incorporated by or under the laws of the state or colony of New York. Every corporation, which is not a domestic corporation, is a foreign corporation.

The term, directors, when used in relation to corporations, shall in-

GENERAL CORPORATION LAW.

clude trustees or other persons, by whatever name known, duly appointed or designated to manage the affairs of the corporation.

The term, certificate of incorporation, shall include articles of association or any other written instruments required by law to be filed, to effect the incorporation of a corporation, including a certified copy of an original certificate of incorporation filed for such purpose in pursuance of law.

The term, member of a corporation, shall include every person having a right to vote at a meeting of the corporation for the election of directors, other than a person having a right to vote only upon a proxy.

The term, office of a corporation, means its principal office within the state, or principal place of business within the state if it has no principal office therein. The office of a stock corporation shall be in the county, town or city in which its business is principally carried on.

The term, business of a corporation, when used with reference to a non-stock corporation, includes the operations for the conduct of which it is incorporated.

The term, corporate law or laws, when used in any law forming a part of the revision of the general laws of the state of which this chapter is a part, means the general laws of the state relating to corporations included in such revision.

Former section 2 amended.

The right to be a corporation is a distinct, independent franchise, complete within itself, and having no necessary connection with other distinct franchises, which are the subjects of legislative grants. *Southern P. R. Co. v. Ortow*, 32 Fed. Rep., 457.

§ 4. Qualification of incorporators.—A certificate of incorporation must be executed by natural persons, who must be of full age, and at least two-thirds of them must be citizens of the United States and a majority of them residents of this state.

This section shall not apply to a corporation formed by the re-incorporation or consolidation of existing corporations, or to the re-organization of a corporation upon the sale of the property and franchises of a previously existing corporation or otherwise.

New.

§ 5. Filing and recording certificates of incorporation.—Every certificate of incorporation and amended or supplemental certificate hereafter executed, except of a religious, cemetery, monied, municipal or fire department corporation, shall be filed in the office of the Secretary of State, and shall be by him duly recorded and indexed in books specially provided therefor; and a certified copy of such certificate or amended or supplemental certificate with a certificate of the Secretary of State of such filing and record, or a duplicate original of such certificate or amended or supplemental certificate shall be filed and similarly

recorded and indexed in the office of the clerk of the county in which the office of the corporation is to be located, or, if it be a non-stock corporation, and such county be not determined upon at the time of executing the certificate of incorporation, in such county clerk's office as the judge approving the certificate shall direct.

All taxes required by law to be paid before or upon incorporation and the fees for filing and recording such certificate must be paid before filing. No corporation shall exercise any corporate powers or privileges until such taxes and fees have been paid.

Former section 3 amended.

See section 7, chap. 611 of 1875, and section 1, chap. 22 of 1881, both repealed by this act.

The right to file in the office of Secretary of State, a certificate, by which a body politic and corporate is to be *ipso facto* created, only exists in behalf of those who bring themselves within the terms of the act. *People ex rel. Blossom v. Nelson*, 46 N. Y., 477. The Secretary of State is not required to file a certificate unauthorized by the act. *Id.*

As to what was a sufficient designation of the business of the corporation in the certificate under chap. 40 of 1848, see *People ex rel. Belknap v. Beach*, 19 Hun, 259.

The certificate is conclusive as to location therein designated, as that of the principal office of the company. *Western Transportation Co. v. Scheu*, 19 N. Y. 408; *Oswego Starch Factory v. Dolloway*, 21 id., 449; *Union Steamboat Co. v. City of Buffalo*, 82 id., 351.

It is immaterial that the principal office or place for transacting the financial concerns of the company is located in a different town or city. *Oswego Starch Factory v. Dolloway*, 21 N. Y., 449.

The filing of the certificate in the office of the county clerk is sufficient to effect the incorporation. *Raisbeck v. Oesterricher*, 4 Abb. N. C., 444; *Cross v. Pinckneyville Mill Co.*, 17 Ill., 54; *Tarbell v. Page*, 24 id., 48; *Stone v. Great Western Oil Co.*, 41 id., 85; *Thompson v. Candor*, 60 id., 248; *Willard v. Trustees, etc.*, 66 id., 55.

An omission to file the duplicate in the office of the Secretary of State does not, in such case, vitiate the incorporation so as to render the members partners as between themselves. *Raisbeck v. Oesterricher, ante.*

An organization, such as will create a corporation *de jure*, and can successfully maintain itself against inquiry on the part of the state, does not exist, until the certificates of association are filed in accordance with law. *Childs v. Smith*, 46 N. Y., 84; *rev'g 38 How.*, 328; 55 Barb., 45.

The office thus designated is the one which fixes the location of the company for the purpose of taxation upon its capital; *Western Transportation Co. v. Scheu*, 19 N. Y., 408; even though such designation was made for the purpose of avoiding taxation at its principal business office. *Id.*; *Oswego Starch Factory v. Dolloway*, 21 id., 449; *Union Steamboat Co. v. City of Buffalo*, 82 id., 351.

But no corporation shall exercise any corporate powers or privileges until all taxes, required by law to be paid before incorporation, and the fees for filing and recording the certificate are paid. Section 3, chap. 563 of 1890.

Parties cannot take charter with which they have no concern and effect corporation *de facto* by pretense of user thereunder. *Welch v. O. D. M. & R. Co.*, 31 N. Y. State Rep., 916.

Facts establishing that defendants occupied position, not of vendors, but of trust and confidence towards plaintiffs. *Brewster v. Hatch*, 122 N. Y., 349.

Promoters of corporation, before its organization, occupy position of trust and confidence towards those whom they induce to invest in enterprise, and are liable for damages sustained by reason of their acts. *Id.*

§ 6. Corporations of the same name prohibited.—No certificate of incorporation of a proposed corporation having the same name as an

GENERAL CORPORATION LAW.

existing domestic corporation, or a name so nearly resembling it as to be calculated to deceive, shall be filed or recorded in any office for the purpose of effecting its incorporation.

A corporation formed by the re-incorporation, re-organization or consolidation of other corporations or upon the sale of the property or franchises of a corporation, may have the same name as the corporation or one of the corporations to whose franchises it has succeeded.

Former section 4 amended.

See section 1, chap. 135 of 1870, and section 4, chap. 611 of 1875, both repealed; and also chap. 322 of 1870, as amended by chap. 280 of 1876, and chap. 38 of 1891.

The Secretary of State must decide in the first instance whether the proposed name is, or is not, within the statutory prohibition. *State v. McGrath*, 5 S. W. Rep. 29. He will not be compelled by *mandamus* to file the certificate, until it is shown that the law has been complied with by the association in the selection of its name. *Id.*

Change of corporate name, on application, rests in the careful discretion of the court. *Matter of Bank of Attica*, 35 N. Y. St. Rep., 708.

Granting or refusing order permitting corporation to change name is discretionary. *Matter of United S. M. R. Co.*, 24 N. Y. St. Rep., 548.

Appellate court may redress abuse of such discretion. *Id.*

Change of corporate name will be denied, when proposed name will infringe upon name of another company in same business. *Matter of United States M. R. & C. Ass'n*, 23 N. Y. St. Rep., 494.

Com. Ass. Co. v. Smith, 18 N. Y. St. Rep., 151; *Trust Co. v. Trust Co.*, 1 N. Y. Supp., 44; *Matter of U. S. Mer. R. & C. Ass'n*, 22 N. Y. St. Rep., 494.

§ 7. Amended and supplemental certificates.—If in the original or amended certificate of incorporation of any corporation, or if in a supplemental certificate of any corporation any informality exist, or if any such certificate contain any matter not authorized by law to be stated therein, or if the proof or acknowledgment thereof shall be defective, the corporators or directors of the corporation may make and file an amended certificate correcting such informality or defect or striking out such unauthorized matter; and the certificate amended shall be deemed to be amended accordingly as of the date such amended certificate was filed, and upon the filing of such an amended certificate of incorporation, the corporation shall then for all purposes be deemed to be a corporation from the time of filing the original certificate.

The supreme court may, upon due cause shown, and proof made, and upon notice to the Attorney-General, and to such other persons as the court may direct, and upon such terms and conditions as it may impose, amend any certificate of incorporation which fails to express the true object and purpose of the corporation, so as to truly set forth such object and purpose.

When an amended or supplemental certificate is filed, an entry shall be made upon the margin of the index and record of the original certificate of the date and place of record of every such amended certificate.

GENERAL CORPORATION LAW.

The amendment of a certificate under this section shall be without prejudice to any pending action or proceeding, or to any rights previously accrued.

Former section 5 amended.

See sections 1, 2, chap. 135, of 1870, both repealed by this act.

This section is intended, *it seems*, to enable companies to remedy patent omissions; that is, the omission of things which are required to be stated, and which, being omitted, make the certificate imperfect on its face. *Matter of N. Y., L. & W. R. R. Co.*, 25 Hun, 556.

§ 8. Lost or destroyed certificates.—If either of the certificates of incorporation shall be lost or destroyed after filing, a certified copy of the other certificate may be filed in the place of the one so lost or destroyed and as of the date of its original filing, and such certified copy shall have the same force and effect as the original certificate had when filed.

Former section 6 without change.

§ 9. Certificate and other papers as evidence.—The certificate of incorporation of any corporation duly filed shall be presumptive evidence of its incorporation, and any amended certificate or other paper duly filed relating to the incorporation of any corporation, or its existence or management, and containing facts required by law to be stated therein, shall be presumptive evidence of the existence of such facts.

Former section 7 without change.

See section 9, chap. 40, of 1848, now repealed.

A copy of the certificate of incorporation filed in pursuance of the act, certified by the county clerk, etc., is presumptive legal evidence of the incorporation, and of the appointment of the trustees. *Squires v. Brown*, 22 How., 35.

See section 933 of the Code of Civil Procedure. This section provides that a duly certified copy of such certificate is evidence as though the original is produced. The originals are made evidence by this act.

The production of a copy of the certificate of incorporation filed with the county clerk, duly certified by him, is sufficient proof of corporate existence and sufficient answer to all allegations of non-incorporation, except in a direct proceeding by the state to annul the franchise. *Kingsley v. City of Brooklyn*, 4 Abb. N. C., 444; *Jones v. Dana*, 24 Barb., 398.

This section does not exclude other modes of proving the fact of incorporation. *N. Y. Car-Oil Co. v. Richmond*, 6 Bosw., 213. Where no certificate can be found in the county clerk's office, it is competent to prove by oral evidence that a certificate was in fact filed, and to produced in evidence a sworn copy thereof. *Id.* A duly authenticated copy of the duplicate filed in the office of the Secretary of State, with oral proof that a like certificate was filed with the county clerk, is sufficient. *Id.*

All that a corporation is called upon to prove, to establish its existence, in a litigation with individuals dealing with it, is its charter and uses under it. *Jones v. Dana*, 24 Barb., 395.

What acts are sufficient to establish the existence of a corporation *de facto*. *De Witt v. Hastings*, 8 J. & Sp., 463; 69 N. Y., 618.

Bank, by receiving and collecting checks drawn in favor of corporation, is estopped from denying its corporate character. *C. M. Co. v. Mer. Bk.*, 59 Hun, 561.

Those dealing with body professing to be corporation can not question its corpo-

GENERAL CORPORATION LAW.

rate existence for the purpose of charging its members individually as partners. *Demarest v. Flack*, 16 Daly, 387.

Stockholders are estopped to deny the lawful existence of corporations which they have helped to create. *Dorris v. French*, 4 Hun, 292.

A person, who has subscribed for the stock, acted as a trustee of the corporation, took part in its management and contracted with it as a corporation, can not dispute the validity of the incorporation in an action under this section. *Phoenix W. Co. v. Badger*, 67 N. Y., 394; *Eaton v. Aspinwall*, 19 id., 119; *Buffalo, etc., R. R. Co. v. Cary*, 26 id., 75; *Aspinwall v. Sacchi*, 57 id., 331; *White v. Ross*, 15 Abb., 66.

§ 10. Prohibition of other than statutory powers.—No corporation shall possess or exercise any corporate powers not expressly given by law or not necessary to the exercise of the powers so given.

Former section 9 not changed except in phraseology.

See section 3, title 3, chap. 18, part 1, R. S., now repealed.

Everything relating to the organization of a private corporation is mere matter of individual contract. *Troy & R. R. Co. v. Kerr*, 17 Barb., 581. The compact, which is to clothe its members with an artificial, corporate existence, must receive the voluntary assent of the whole. *Id.* The rule is the same as to amendments to the charter or act of incorporation. *Id.*

Unless restrained by law, every corporation has the incidental power to make any contract necessary to advance the objects for which it was created. *Legrand v. Man. Mer. Ass'n*, 80 N. Y., 638.

A corporation has no other powers than such as are specifically granted by the act of incorporation, or are necessary for the purpose of carrying into effect the powers expressly granted. *People ex rel. Attorney-General v. Utica Ins. Co.*, 15 Johns., 358.

Corporations can exercise no powers over the incorporators beyond those conferred by the charter to which they have subscribed, except on the condition of their agreement or consent. *Hartford & N. H. R. R. Co. v. Croswell*, 5 Hill, 383.

Corporations have all the powers of ordinary parties as respects their contract, except when they are restricted expressly or by necessary implication. *Brady v. Mayor, etc.*, 1 Barb., 590.

Corporations can only exercise the powers expressly or incidentally conferred. *Curtis v. Leavitt*, 15 N. Y. 9, 54.

Corporations have no other powers than such as are expressly granted, or such as are necessary to carry into effect the powers expressly granted. *Hodges v. City of Buffalo*, 2 Denio, 110.

A corporation under this act, can purchase, hold and convey, any real or personal estate necessary, to enable it to carry on its transactions. *De Groff v. American Linen Thread Co.*, 21 N. Y., 124.

The manufacturing of goods, necessarily implies the power of disposing of them when manufactured, and also of receiving in payment money, or property readily convertible into money, or provisions or stores, for the payment of its employees. *Id.*

A corporation, after having received from the other contracting party the full consideration, can not be permitted to interpose the defense of *ultra vires*, in order to excuse itself from that portion of the contract which imposes upon it an obligation. *Id. Rider Life Raft Co. v. Roach*, 97 id, 378.

Manufacturing corporation cannot become accommodation endorser. *Nat. Park Bk. v. G. A. M. W. & S. Co.*, 116 N. Y., 381; *rev'g* 21 J. & S., 367.

Fact that maker has note discounted, is notice to bank. *Id.*

Where accommodation paper, executed in name of president, has been ratified by stockholders, and no other rights intervene, it may be enforced against corporation. *Martin v. N. F. P. Co.*, 122 N. Y., 165.

Corporation can not make accommodation endorsement. *Wahlig v. S. P. M. Co.*, 23 N. Y. St. Rep., 864.

Act of treasurer is presumed to be, in such case, *ultra vires*. *Id.*

Corporation can not become surety on lease. *Filon v. M. B. Co.*, 38 N. Y. St. Rep., 602.

Railroad corporation has power to make a lease for a term of years. *Beveridge v. N. Y. E. R. R. Co.*, 112 N. Y., 1.

GENERAL CORPORATION LAW.

Stockholders are not parties to lease of railroad to another company. *Id.*

Directors have power to make necessary reduction of rental reserve in lease, if done in good faith. *Id.*

Section 1778 of Code does not apply to action against corporation as endorser. *Shorer v. T. P. & P. Co.*, 119 N. Y., 483; 24 N. Y. St. Rep., 868.

In absence of any prohibition, express or implied, repurchase of landscript by company, without intending to cancel or retire it, will not prevent company from using it again, consistently with rights of stockholders and company itself. *Rogers v. Phelps*, 31 N. Y. St. Rep., 872.

Banking association may sue in its corporate name. *Columbia Bank v. Jackson*, 24 N. Y. St. Rep., 738.

Persons dealing with corporation, is chargeable with notice of its powers and extent of power and authority of its agents or officers. *Jamison v. Citizens' S. Bk.*, 122 N. Y., 135.

Speculative contracts for sale or purchase of stock by savings bank are *ultra vires*. *Id.*

Authority to buy and sell exchange, bullion., etc, does not embrace speculative contracts in cotton futures. *Id.*

Corporation can not be held liable for goods sold to company of same name, on ground of identity, where it was organized after such sale and has different officers and stockholders with single exception. *Wyckoff v. U. L. & T. Co.*, 33 N. Y. St. Rep., 422.

When burden is on receiver to show that corporate contract was not authorized or ratified by trustees. *Patterson v. Robinson*, 116 N. Y., 193.

Plea of *ultra vires* is no defense, where corporation has executed contract in good faith and party has reaped benefit. *Watts C. Co. v. Yuengling*, 51 Hun, 302.

Defense of *ultra vires*, based upon foreign statutes, must be pleaded. *Griess v. Mass. B. Ass'n*, 39 N. Y. St. Rep., 1.

Non-resident plaintiff may sue foreign corporation in courts of this state, when cause of action arose here. *Id.*

Where validity of *ultra vires* contract is recognized, and performance accepted by company, court will not deny party benefit of its provisions. *Palmer v. C. H. Cem.*, 122 N. Y., 429.

Where compromise agreement expressly states that it is made on behalf of such certificate-holders as should assent thereto, it binds assenting holders only. *Humphreys v. N. Y., L. E. & W. R. R. Co.*, 21 N. Y. St. Rep., 750.

A party, dealing with a corporation, is presumed to know the extent of its corporate powers. *Akin v. Blanchard*, 32 Barb., 127; *Adrian v. Roome*, 52 Id., 399; *Dabney v. Stephens*, 40 How., 341; *Alexander v. Cauldwell*, 33 N. Y., 480.

But he has a right to presume, in the absence of express notice to the contrary that the corporation does its duty and acts within and according to its charter *Akin v. Blanchard, ante*.

The officers can not bind the company except within the limits prescribed by the charter and by-laws. *Adrian v. Roome*, 52 Barb., 399.

They are special and not general agents. *Id.*

There is no grant of power in the name by which the officer is designated; especially when the authority given is specified in the by-laws. *Id.*

Where the officers are not authorized by the act of incorporation or by-laws to do a certain act, the company can not be held liable therefor except upon proof:

1. That a general or particular authority for that purpose was conferred upon such officers or either of them, or
2. That the conduct of the company was such as to create a well founded belief that such general or particular authority had been delegated, or
3. That such acts, though unauthorized, were subsequently ratified by the board of trustees. *Dabney v. Stevens*, 40 How., 341.

It can not be presumed that an agent had authority to transact business in which the corporation itself was not, by its charter, authorized to engage. *Alexander v. Cauldwell*, 33 N. Y., 480.

The power of an incorporated company to borrow money, when it has not been directly conferred by its charter, extends, *it seems*, to all cases where it is essential to the transaction of its ordinary business. *Beers v. Phoenix Glass Co.*, 14 Barb., 358.

In such case, it is incidental and in effect included in the grant of the principal power. *Id.* But this power should be limited to and for the appropriate business of the corporation. *Id.*

GENERAL CORPORATION LAW.

Neither the use of the corporate seal, nor a resolution of the trustees, is necessary to make the contract of a corporation valid. *Hoag v. Lamont*, 60 N. Y., 98.

A corporation, organized under this act, may, upon a sale of a portion of its lands to another similar corporation, agree to advance moneys to the latter, to be used in erecting buildings on the premises conveyed. *Greenpoint S. Co. v. Whitin*, 19 N. Y., 328.

A director, trustee or an executive officer of a corporation is, as a general rule, without power to bind it or its shareholders by a contract authorized by or entered into with himself and for his individual benefit. *Welch v. I. & T. N. Bk.*, 122 N. Y., 177. But if such contract is just as between the parties, and all the shareholders and directors and trustees are competent to assent, and, with full knowledge of the terms of the contract, do assent and direct that it be made, it is binding on the corporation and can not be avoided by its shareholders or by persons who subsequently become its creditors. *Welch v. I. & T. N. Bk.*, 122 N. Y., 177.

A corporation that has permitted certain individuals to take possession of its property, seal and records, and to act as its trustees, and has in fact held them out to the world as its trustees, and as authorized to act for it, is as much as an individual would be, estopped from questioning the acts of its agents within the scope of their apparent authority. *Lovett v. German R. Ch.*, 12 Barb., 67.

A manufacturing corporation may temporarily lease, *it seems*, its property to some person who will continue and carry on its business. *Denike v. N. Y. & R. L. & C. Co.*, 80 N. Y., 599.

The general rules of law relating to contract and property rights apply to corporations as well as to individuals, and the principles of law of agency apply to both alike. *Martin v. N. F. P. Mfg. Co.*, 122 N. Y., 165.

The stockholders may, where no rights of creditors intervene and no fraud is claimed, ratify the acts of the president and bind the corporation for the payment of a debt evidenced by notes made and discounted for his accommodation. *Id.*

When a transaction has been ratified by all the owners of the corporate property, formal action by the board of trustees is unnecessary. *Id.*

In such case, the company can not be heard to impeach it on the ground that it is without, or contrary to authority. *Id.*; *Kent v. Quicksilver M. Co.*, 73, N. Y., 159.

Additional powers conferred upon railroad companies are enumerated in section 4, chap. 565 of 1890; on Ferry corporations, in section 4, chap. 566 of 1890; on Stage Coach corporations, in section 22, chap. 566 of 1890; on Tramway corporations, in section 31, chap. 566 of 1890; on Pipe Line corporations, in section 49, chap. 566 of 1890; on Gas and Electric Light corporations, in section 61, chap. 566 of 1890; on Waterworks corporations, in section 82, chap. 566 of 1890.

All corporations, whether foreign or domestic, are debarred from alleging usury in the courts of our state, no matter where the contract was made, or by what *lex loci* it was to be governed. *Rosa v. Butterfield*, 33 N. Y., 665. Nor can any corporation maintain an action to invalidate its contracts on the basis of usury. *Id.*; *Butterworth v. O'Brien*, 28 Barb., 187; *Hungerford's Bk. v. Dodge*, 30 id., 629; *Southern L. I. & T. Co. v. Packer*, 17 N. Y., 51.

Corporations are prohibited from interposing the defense of usury in any action. *Butterworth v. O'Brien*, 23 N. Y., 75. This deprives them of the right to recover back money paid by them in excess of legal interest. *Id.* The receiver stands in no better position. *Id.*; *Rosa v. Butterfield*, 33 N. Y., 665. Nor do the sureties of a corporation. *Id.*; *Stewart v. Bramhall*, 74 N. Y., 85; *Union Nat. Bk. v. Wheeler*, 60 id., 512; *Smith v. Alvord*, 63 Barb., 415.

It can not sue for the surrender of securities pledged by it as collateral to a usurious agreement. *Isle of Wight Co. v. Smith*, 51 Hun, 562.

Corporation can not sue for surrender of securities pledged as collateral to usurious debt. *Isle of Wight Co. v. Smith*, 51 Hun, 563.

An action for malicious prosecution will lie against a corporation. *Morton v. Met. L. Ins. Co.*, 34 Hun, 366.

It is liable for slandering the business of another corporation. *Buffalo, etc., Co. v. Standard O. Co.*, 43 Hun, 153; 106 N. Y., 669.

It may be liable even when a fraudulent or malicious intent in fact is necessary to be proved. *Reed v. Home Sav. Bk.*, 130 Mass., 445. The fraud or malice of its authorized agents is imputable to the corporation. *Id.*

A corporation may become a party to a conspiracy and liable for the action of all the conspirators. *Dodge v. Bradstreet Co.*, 59 How., 104; *Morton v. Met. Life*

GENERAL CORPORATION LAW.

Ins. Co., 34 Hun, 367; 103 N. Y., 645; Kruleirtz v. Eastern R. R. Co., 140 Mass. 575; Western News Co. v. Wilmarch, 33 Kan., 510; Buffalo L. O. Co. v. Standard O. Co., 106 N. Y., 669.

A corporation is liable for the damage resulting from a wrongful transfer of stock on the books of the company. Brisbane v. D. L. & W. R. R. Co., 13 W. Dig., 184; N. Y. & N. H. R. R. Co. v. Schuyler, 34 N. Y., 30.

Where the stock is, by the terms of the charter or by-laws, transferable only on the corporate books, the purchaser receiving a certificate, with power of attorney, etc., acquires the entire interest of the vendor, with all his rights. N. Y. & N. H. R. R. Co. v. Schuyler, 34 N. Y., 30. If he neglects to have the transfer made on the books until after such stock is transferred to a *bona fide* holder without notice, he loses his right to demand and have the transfer thereof made to him. *Id.* But the corporation will be liable to the holder of such certificate for permitting the stock to be transferred to another, where it has notice of these outstanding certificates. *Id.*

A corporation is liable for the acts of a servant, within the general scope of his employment, while engaged in his master's business, and done with a view to the furtherance of that business and the master's interest, whether they are done negligently, wantonly or even willfully. Mott v. Consumers' Ice Co., 73 N. Y., 543; Buffalo L. O. Co. v. S. O. Co., 42 Hun, 153.

A pleading should allege that the acts complained of were done by the corporation and not by its agents. Buffalo, etc., Co. v. Standard O. Co., 42 Hun, 153; Stoddard v. Onondaga County, 12 Barb., 575.

Promoters are liable for work done or material furnished for company on their order, in case it is never actually incorporated. Hub. Pub. Co. v. Richardson, 37 N. Y. St. Rep., 541.

Contemplated corporation is liable for work ordered by corporators for its benefit. Grier v. H. H. & Co., 38 N. Y. St. Rep., 462.

Corporation, not in existence at time of employment is not liable on agreement made between third party to divide commission for services to be rendered on sale to be made by corporation. Wilbur v. N. Y. E. C. Co., 58 Super., 539.

Holmes, etc., Co. v. Holmes, etc., Co., 53 Hun, 52; Sistare v. Best, 88 N. Y., 527; Crocker v. Whitney, 71 id., 170; Pratt v. Short, 79 id., 437; Whitney Arms Co. v. Barlow, 63 id., 82; Watts-Campbell Co. v. Yuengling, 51 Hun, 302; Holmes, etc., v. Willard, 5 N. Y. Supp., 610; Starin v. Edson, 112 N. Y., 206; Leslie v. Lorillard, 110 id., 519.

§ 11. Grant of general powers.—Every corporation as such has power, though not specified in the law under which it is incorporated:

1. To have succession for the period specified in its certificate of incorporation or by-law, and perpetually when no period is specified.

2. To have a common seal, and alter the same at pleasure.

3. To acquire by grant, gift, purchase, devise or bequest, to hold and to dispose of such property as the purposes of the corporation shall require, subject to such limitations as may be prescribed by law.

4. To appoint such officers and agents as its business shall require, and to fix their compensation, and

5. To make by-laws, not inconsistent with any existing law, for the management of its property, the regulation of its affairs, and the transfer of its stock, if it has any. Such by-laws may also fix the amount of stock, which must be represented at meetings of the stockholders in order to constitute a quorum, unless otherwise provided by law. By-laws duly adopted at a meeting of the members of the corporation shall control the action of its directors.

No by-law regulating the election of directors or officers shall be valid unless published for at least two weeks in a newspaper in the

GENERAL CORPORATION LAW.

county where the election is to be held, and at least thirty days before such election.

Subdivisions four and five of this section shall not apply to municipal corporations.

Former section 8 amended.

See section 1, title 3, chap. 18, part I, R. S.; section 6, title 4, chap. 18, part I, R. S.; sections 7, 26, chap. 40 of 1848; section 2, chap. 611 of 1875, and chap. 173 of 1850; all of which are repealed.

The powers of corporations are expressly limited to those specified in the statute or conferred by their charters. *Matter of McGraw v. Cornell University*, 45 Hun, 354; *Halstead v. Mayor, etc.*, 3 N. Y., 433; *Riley v. City of Rochester*, 9 id., 64.

The doctrine that no corporate act can be binding without being in writing, or under the corporate seal, has long ceased to be maintained. *Leinkauf v. Calman*, 110 N. Y., 50; *Danforth v. Schoharie T. Co.*, 12 Johns., 227; *Trustees, etc., v. Cagger*, 6 Barb., 576; *Moss v. Averell*, 10 N. Y., 449.

The power to purchase lands was, at common law, incident to all corporations, unless they were specially restrained by their charters or by statute. *Nicoll v. N. Y. & E. R. R. Co.*, 12 N. Y., 121.

Where a member of a corporate body has contracted with it in its corporate capacity, neither he nor it can dispute its corporate character, if the contract has been properly executed. *Whitford v. Laidler*, 94 N. Y., 145; *Eaton v. Aspinwall*, 19 id., 119; *Buffalo, etc., Co. v. Cary*, 26 id., 78. It is sufficient if it is a corporation *de facto*, exercising the powers and functions of a *de jure* corporation, and assuming to act as such. *Id.*

Where a corporation is authorized, under some circumstances, to hold and convey real estate, it will be presumed, in the absence of proof to the contrary, that real estate, conveyed by it, was held and conveyed in pursuance of its powers. *Farmers' L. & T. Co. v. Curtis*, 7 N. Y., 466.

Corporations, though limited in their duration, may purchase and hold a fee, and may sell such real estate whenever they shall find it no longer necessary or convenient. *Nicoll v. N. Y. & E. R. R. Co.*, 12 N. Y., 121; 5 Denio, 389.

A by-law giving to the senior bailiff a casting vote in case of a tie, was held to be illegal. So, a by-law imposing an oath of office where none was required by the charter, was declared to be invalid. *Rex v. Dean*, 1 Strange, 536. So, a by-law restricting or extending the right of admission of a member, or of eligibility to office, or prescribing new or additional tests or qualifications to voters, was held to be unlawful. *Id.*, 237. So, a by-law made by a company in a corporation, to restrain the number of apprentices to be taken by any of its members, was declared to be void. *King v. Wardens, etc.*, 7 Term, 540; *King v. Tappenden*, 3 East, 186. So, it has been held that, while the number of electors might be narrowed or fixed by a by-law, the eligibility of members could not in that manner be changed. *Rex v. Spencer*, 3 Burr., 1827; *People ex rel. Israel v. Tibbets*, 4 Cow., 358; *People ex rel. Barker v. Kip*, id., 382.

The directors can not pass any by-law at variance with the positive provisions of the act of incorporation. *People ex rel. Barker v. Kip*, 4 Cow., 382, note.

The by-laws of a corporation, made in pursuance of its special charter, or of the general laws under which it is organized, are binding on all members and others acquainted with the method of doing business. *Driscoll v. West B. & C. Mfg. Co.*, 59 N. Y., 96.

A by-law allowing the stockholders, on paying thirty per cent. on their shares, to forfeit their stock, is void as against creditors. *Slee v. Bloom*, 19 Johns., 456. But a by-law, that any stockholder paying fifty per cent. on his shares, shall be discharged from all future calls on his subscription, etc., other than proceeding by way of forfeiture was held to be valid. *Id.*

An incorporated company has no power to make a by-law, subjecting to forfeiture shares owned by individuals in the stock of the company for the non-payment of installments due upon such shares, unless the power to pass such by-law is expressly granted by its charter or act of incorporation. *Matter of Long I. R. R. Co.*, 19 Wend., 37.

A by-law declaring that the ordinary business of the corporation may be transacted by a quorum of five directors, the whole number being twenty-three, is a valid regulation. *Hoyt v. Thompson's Executors*, 19 N. Y., 207. Such by-law

GENERAL CORPORATION LAW.

embraces the general business of the corporation, including as incident thereto the power of pledging or assigning its assets for the purpose of securing a debt. *Id.*

By-laws, which forbid a member to work at his trade at such prices as he chooses to accept, and compel him to join in a "strike" by punishing him for refusing to do so, are void as against public policy. *People ex rel. Doyle v. N. Y. Ben. Soc.*, 8 Hun, 361.

Every by-law, made in pursuance of a general or incidental authority, must be a reasonable one. *Driscoll v. West B. & C. Mfg. Co.*, 59 N. Y., 96. It is not a reasonable by-law, which, without authority express or to be clearly implied, interferes with the common rights of property and the dealings of third persons, and prevents the purchase or delivery of property. *Id.*

A corporation has no power, in the absence of a provision to that effect in its articles of association, to create or declare a lien upon its stock by by-law, or to refuse to permit a transfer until the indebtedness of the stockholder to the company is paid. *Id.* A *bona fide* purchaser of stock, without knowledge or notice of such a by-law, is not bound by it. *Id.* He can compel the transfer to him, upon the books of the corporation, of the stock purchased. *Id.* But does not section 26 of chap. 564 of 1890 authorize such by-law with the proviso therein mentioned?

In the absence of some power to change the relative value of the shares conferred by statute on the articles of association, no change can be made without the consent of all the stockholders. *Campbell v. American Zylonite Co.*, 122 N. Y., 455; *Kent v. Quicksilver M. Co.*, 78 id., 159.

Rudolph v. Southern B. League, 23 Abb. N. C., 199; *Austin v. Searing*, 16 N. Y., 112; *Protective Ass'n v. McGrath*, 23 N. Y. St. Rep., 209; *Loubat v. Le Roy*, 15 Abb. N. C., 20; *Lafond v. Deema*, 81 N. Y., 514; *People v. Society*, 82 id., 194.

§ 12. Enlargement of limitations upon the amount of the property of non-stock corporations.—If any general or special law heretofore passed, or any certificate of incorporation, shall limit the amount of property a corporation other than a stock corporation may take or hold, such corporation may take and hold property of the value of three million dollars or less, or the yearly income derived from which shall be five hundred thousand dollars or less, notwithstanding any such limitations. In computing the value of such property, no increase in value arising otherwise than from improvements made thereon shall be taken into account.

Am'd by chap. 400 of 1894. Went into effect May 3, 1894.

§ 13. Acquisition of additional real property.—When any corporation shall have sold or conveyed any part of its real property, the supreme court may, notwithstanding any restriction of a general or special law, authorize it to purchase and hold from time to time other real property, upon satisfactory proof that the value of the property so purchased does not exceed the value of the property so sold and conveyed within the three years next preceding the application.

Former section 10 amended.

§ 14. Acquisition of property in other states.—Any domestic corporation transacting business in other states or foreign countries may acquire and dispose of such property as shall be requisite for such corporation in the convenient transaction of its business.

GENERAL CORPORATION LAW.

Former section 11 amended.

See section 1, chap. 146, of 1872, and section 1, chap. 361, of 1882, now repealed.

If such other state does not permit the corporation to acquire or hold real property, it can not be inferred, but must be expressed in some affirmative way. *Cowell v. Springs Co.*, 100 U. S., 55.

§ 15. **Certificate of authority of a foreign corporation.**—No foreign stock corporation other than a monied corporation, shall do business in this state without having first procured from the Secretary of State a certificate that it has complied with all the requirements of law to authorize it to do business in this state, and that the business of the corporation to be carried on in this state is such as may be lawfully carried on by a corporation incorporated under the laws of this state for such or similar business, or, if more than one kind of business, by two or more corporations so incorporated for such kinds of business respectively. The Secretary of State shall deliver such certificate to every such corporation so complying with the requirements of law. No such corporation now doing business in this state shall do business herein after December 31, 1892, without having procured such certificate from the Secretary of State, but any lawful contract previously made by the corporation may be performed and enforced within the state subsequent to such date.

No foreign stock corporation doing business in this state without such certificate shall maintain any action in this state upon any contract made by it in this state until it shall have procured such certificate.

New.

§ 16. **Proof to be filed before granting certificate.**—Before granting such certificate the Secretary of State shall require every such foreign corporation to file in his office a sworn copy of its charter or certificate of incorporation, and a statement under its corporate seal, particularly setting forth the business or objects of the corporation which it is engaged in carrying on, or which it proposes to carry on, within the state, and a place within the state which is to be its principal place of business, and designating, in the manner prescribed in the Code of Civil Procedure, a person upon whom process against the corporation may be served within the state.

The person so designated must have an office or place of business at the place where such corporation is to have its principal place of business within the state. Such designation shall continue in force until revoked by an instrument in writing designating in like manner some other person upon whom process against the corporation may be served in this state.

If the person so designated dies, or removes from the place where the corporation has its principal place of business within the state, and the corporation does not within thirty days after such death or removal,

GENERAL CORPORATION LAW.

designate in like manner another person upon whom process against it may be served within the state, the Secretary of State may revoke the authority of the corporation to do business within the state, and process against the corporation in an action upon any liability incurred within this state before such revocation may, after such death or removal and before another designation is made, be served upon the Secretary of State. At the time of such service the plaintiff shall pay to the Secretary of State two dollars, to be included in his taxable costs and disbursements, and the Secretary of State shall forthwith mail a copy of such notice to such corporation, if its address or the address of any officer thereof is known to him.

New.

§ 17. Acquisition of real property in this state by certain foreign corporations.—Any foreign corporation created under the laws of the United States, or of any state or territory thereof, and doing business in this state, may acquire such real property in this state as may be necessary for its corporate purposes in the transaction of its business in this state, and convey the same by deed or otherwise in the same manner as a domestic corporation.

Former section 12 amended.

See section 1, chap. 450 of 1887, now repealed.

The policy of a state may exclude foreign corporations from acting within its jurisdiction, and such policy may be clearly established by a reference to its general legislation. *Demarest v. Flack*, 128 N. Y., 205. It is not necessary for a state to do so expressly by statute. *Id.* But no such policy is found in the laws of our state. *Id.* A corporation, formed in another state, by citizens of this state for the purpose of transacting business here, is not excluded from recognition by the courts of this state, unless it is formed to do acts prohibited by the laws of the state to its own citizens or corporations. *Id.* If it is legally incorporated and entitled to recognition in the courts of the state where it was organized, it is entitled to recognition and protection in the tribunals of this state. *Id.* The power rests exclusively with the legislature to say whether any, and, if so, what terms shall be imposed upon such a corporation as a condition of its doing business here. *Id.* The absence of such terms furnishes no ground for refusing to recognize it. *Id.*

Court has no jurisdiction to interfere with internal administration of affairs of foreign corporations. *Berford v. New York I. Mine*, 56 Supr., 236.

Section 1780 of Code does not violate section 2, art. 4, of Federal Constitution. *Robinson v. Ocean S. N. Co.*, 20 N. Y. St. Rep., 741.

§ 18. Acquisition by foreign corporation of real property in this state.—Any foreign corporation may purchase at a sale upon the foreclosure of any mortgage held by it, or, upon any judgment or decree for debts due it, or, upon any settlement to secure such debts, any real property within this state covered by or subject to such mortgage, judgment, decree or settlement, and may take by devise any real property situated within this state and hold the same for not exceeding five years from the date of such purchase, or from the time when the right to the possession thereof vests in such devisee, and convey it by deed or otherwise in the same manner as a domestic corporation.

Am'd by chap. 136 of 1894. Took effect March 15, 1894.

§ 19. Prohibition of banking powers.—No corporation except a corporation formed under or subject to the banking laws, shall by any implication or construction be deemed to possess the power of carrying on the business of discounting bills, notes or other evidences of debt, of receiving deposits, of buying gold or silver bullion or foreign coins, or buying and selling bills of exchange, or shall issue bills, notes or other evidences of debt for circulation as money.

Former section 14.

See section 4, title 3, chap. 18, part 1, R. S. now repealed.

It is the settled policy of the legislature to prevent corporations, which are not formed for banking business, from carrying on, or in any manner interfering with the same. *N. Y. State L. & T. Co. v. Helmer*, 77 N. Y., 64. The courts are bound to carry out the law and to see that it is not violated. *Id.*; *Utica Ins. Co. v. Scott*, 19 Johns., 1; *People v. Utica Ins. Co.*, 15 id., 358; *N. Y. Firemen Ins. Co. v. Ely*, 2 Gow., 678; *N. Y. L. Ins. Co. v. Beebe*, 7 N. Y., 364; *Talmadge v. Pell*, id., 328; *Utica Ins. Co. v. Kip*, 8 Cow., 20; *Oneida Bk. v. Ontario Bk.*, 21 N. Y., 490.

Certificates of deposit irredeemable within twenty years and bearing interest, issued as loans by the New York Life Insurance and Trust Company, were held to be violations of the former statute upon this subject. *N. Y. Life Ins. & T. Co. v. Beebe*, 7 N. Y., 364.

The prohibition of this section extends to foreign corporations. *Amer. L. Ins. & T. Co. v. Dobbin, Hill and Denio*, 252. But such corporation is not prohibited by it, from purchasing promissory notes. *Id.*

The penalty or forfeiture declared in the statute, and no other, will be enforced. *Pratt v. Short*, 79 N. Y., 437. It was not intended that all claims to money loaned or advanced upon the prohibited security should be forfeited. *Id.*; *Davis S. M. Co. v. Best*, 30 Hun, 638; *Rome Savings Bk. v. Krug*, 102 N. Y., 331; *N. Y. St. L. & T. Co. v. Helmer*, 77 id., 64; *Rome Sav. Bk. v. Kramer*, 33 Hun, 270; *Pratt v. Eaton*, 79 N. Y., 449.

The history of the restraining acts is given, and the authorities on the subject collated, in *Pratt v. Short*, 79 N. Y., 437. See *Utica Ins. Co. v. Caldwell*, 3 Wend., 296; *Same v. Bloodgood*, 4 id., 652; *Mercein v. People*, 25 id., 64; *Tracy v. Talmage*, 14 N. Y., 189; *Curtis v. Leavitt*, 15 id., 97; *Atlantic State Bk. v. Savery*, 82 N. Y., 291. See further, *Crocker v. Whitney*, 71 N. Y., 161.

§ 20. Qualification of members as voters.—At every election of directors and meeting of the members of any corporation, every member who is not in default in the payment of his subscriptions upon his stock or disqualified by the by-laws, shall be entitled to one vote, if a non-stock corporation, and, if a stock corporation, to one vote for every share of stock held by him for ten days immediately preceding the election or meeting.

Every pledgor of stock standing in his name on the books of the corporation shall be deemed the owner thereof for the purposes of this section.

The certificate of incorporation of any stock corporation may provide that at all elections of directors of such corporation, each stockholder shall be entitled to as many votes as shall equal the number of his shares of stock multiplied by the number of directors to be elected, and that he may cast all of such votes for a single director or may distribute them among the number to be voted for, or any two or more of them as he may see fit, which right, when exercised, shall be

GENERAL CORPORATION LAW.

termed cumulative voting. The stockholders of a corporation heretofore formed, who, by the provisions of laws existing on April 30, 1891, were entitled to the exercise of such right, may hereafter exercise such right according to the provisions of this section.

No person shall vote or issue a proxy to vote at any meeting of the stockholders or bondholders, or both, of a stock corporation, upon any stock or bonds which have not been owned by him for at least ten days next preceding such meeting, notwithstanding such stock or bonds may stand in his name on the books of the corporation.

No member of a corporation shall sell his vote or issue a proxy to vote to any person for any sum of money or any thing of value.

The books and papers containing the record of membership of the corporation shall be produced at any meeting of its members upon the request of any member. If the right to vote at any such meeting shall be challenged, the inspectors of election, or other persons presiding thereat, shall require such books, if they can be had, to be produced as evidence of the right of the person challenged to vote at such meeting, and all persons who may appear from such books to be members of the corporation may vote at such meeting in person or by proxy, subject to the provisions of this chapter.

Part of section 54 of stock corporation law amended.

§ 21. **Proxies.**—Every member of a corporation, except a religious corporation, entitled to vote at any meeting thereof may so vote by proxy.

No officer, clerk, teller or bookkeeper of a corporation formed under or subject to the banking law shall act as proxy for any stockholder at any meeting of any such corporation.

Every proxy must be executed in writing by the member himself, or by his duly authorized attorney. No proxy hereafter made shall be valid after the expiration of eleven months from the date of its execution unless the member executing it shall have specified therein the length of time it is to continue in force, which shall be for some limited period. Every proxy shall be revocable at the pleasure of the person executing it; but a corporation having no capital stock may prescribe in its by-laws the persons who may act as proxies for members, and the length of time for which proxies may be executed.

Part of section 54 of stock corporation law amended.

§ 22. **Challenges.**—Every member of a corporation offering to vote at any election or meeting of the corporation shall, if required by an inspector of election or other officer presiding at such election or meeting, or by any other member present, take and subscribe the following oath: "I do solemnly swear that in voting at this election I have not, either directly, indirectly or impliedly, received any promise or any

GENERAL CORPORATION LAW.

sum of money, or any thing of value to influence the giving of my vote or votes at this meeting or as a consideration therefor."

If it is a stock corporation, the oath so taken and subscribed shall contain the following additional provision: "That I have not sold or otherwise disposed of my interest in or title to any shares of stock or bonds in respect to which I offer to vote at this election, but that all such shares or bonds are still owned by me."

Any person offering to vote as proxy for any other person shall present his proxy and, if so required, take and subscribe the following oath:

"I do solemnly swear that I have not, either directly, indirectly or impliedly, given any promise or any sum of money or anything of value to induce the giving of a proxy to me to vote at this election, or received any promise or any sum of money or anything of value to influence the giving of my vote at this meeting, or as a consideration therefor."

If a stock corporation, the oath so taken and subscribed shall contain the following additional provision:

"And that the title to the stocks and bonds upon which I now offer to vote is, to the best of my knowledge and belief, truly and in good faith vested in the persons in whose names they now stand."

The inspectors or persons presiding at the election may administer such oath, and all such oaths and proxies shall be filed in the office of the corporation.

Part of section 54 of stock corporation law amended.

§ 23. Effect of failure to elect directors.—If the directors shall not be elected on the day designated in the by-laws, or by-law, the corporation shall not for that reason be dissolved; but every director shall continue to hold his office and discharge his duties until his successor has been elected.

Former section 18.

See section 27, chap. 611 of 1875, now repealed.

A corporation is not dissolved because of the failure to elect trustees, where it is declared that such omission shall not produce its dissolution. *People v. Twaddell*, 18 Hun, 427.

The failure of a board of trustees to adopt by-laws prescribing the time, place and manner for the annual election of trustees, or to hold such election, does not dissolve the corporation. *Matter of Vandeburgh v. Broadway Ry. Co.*, 29 Hun, 343.

This section expressly provides for such omission.

On the dissolution of a corporation, the title to real estate held by it reverts back to its original grantor and his heirs, unless there is some provision in the charter, or some other statutory provision, to avert that consequence. *Bingham v. Weiderwax*, 1 N. Y., 509.

Webster v. Turner, 12 Hun, 264; *Brooklyn S. T. Co. v. City of Brooklyn*, 78 N. Y., 524; *Kincaid v. Dwinelle*, 59 id., 548; *Central Sav. Inst.*, 5 Hun, 34; 66 N. Y., 424; *Chamberlain v. Rochester S. P. V. Co.*, 7 Hun, 557; *People v. Albany & V. R. R. Co.*, 77 N. Y., 232; *rev'g*, 15 Hun, 126; *Atty.-Gen. v. N. A. L. Ins. Co.*, 77

GENERAL CORPORATION LAW.

N. Y., 297; rev'g, 15 Hun, 18; *Ex Parte French Mfg. Co.*, 12 id., 488; *Medbury v. Rochester F. S. Co.*, 19 id., 498; *Kittredge v. Kellogg B. Co.*, 8 Abb. N. C., 168; *Denicke v. N. Y. & R. L. & C. Co.*, 80 N. Y., 599; *Belknap v. N. A. L. Ins. Co.*, 11 Hun, 282; *Cole v. Knickerbocker L. Ins. Co.*, 23 id., 255; *Frothingham v. Barney*, 6 id., 366; *Ex Parte W. T. Skirt Co.*, 8 id., 508; *People v. Nat. Trust Co.*, 82 N. Y., 283; *Central C. R. R. Co. v. 23d St. R. R. Co.*, 54 How., 168; *Matter of N. Y. E. R. Co.*, 70 N. Y., 327; *People v. Hektograph Co.*, 10 Abb. N. C., 358; *Ex Parte Pyrolusite M. Co.*, 29 Hun, 429.

§ 24. Mode of calling special election of directors.—If the election has not been held on the day so designated, the directors shall forthwith call a meeting of the members of the corporation for the purpose of electing directors, of which meeting notice shall be given in the same manner as of the annual meeting for the election of directors.

If such meeting shall not be so called within one month, or, if held, shall result in a failure to elect directors, any member of the corporation may call a meeting for the purpose of electing directors by publishing a notice of the time and place of holding such meeting at least once in each week for two successive weeks immediately preceding the election, in a newspaper published in the county where the election is to be held and in such other manner as may be prescribed in the by-laws for the publication of notice of the annual meeting, and by serving upon each member, either personally or by mail, directed to him at his last known post-office address, a copy of such notice at least two weeks before the meeting.

Transferred from stock corporation law, sections 53, 54 and 55.

§ 25. Mode of conducting special elections of directors.—Such meeting shall be held at the office of the corporation, or if it has none, at the place in this state where its principal business has been transacted, or if access to such office or place is denied or can not be had, at some other place in the city, village or town where such office or place is or was located.

At such meeting the members attending shall constitute a quorum. They may elect inspectors of election and directors and adopt by-laws providing for future annual meetings and election of directors, if the corporation has no such by-laws, and transact any other business which may be transacted at an annual meeting of the members of the corporation.

Id.

§ 26. Qualification of voters and canvass of votes at special elections.—In the absence at such meeting of the books of the corporation showing who are members thereof, each person, before voting, shall present his sworn statement setting forth that he is a member of the corporation; and if a stock corporation, the number of shares of stock owned by him and standing in his name on the books of the corporation, and, if known to him, the whole number of shares of stock of

GENERAL CORPORATION LAW.

the corporation outstanding. On filing such statement, he may vote as a member of the corporation; and if a stock corporation, he may vote on the shares of stock appearing in such statement to be owned by him and standing in his name on the books of the corporation.

The inspectors shall return and file such statements, with a certificate of the result of the election, verified by them, in the office of the clerk of the county in which such election is held, and the persons so elected shall be the directors of the corporation.

Id.

§ 27. Powers of supreme court respecting elections.—The supreme court shall, upon the application of any person or corporation aggrieved by or complaining of any election of any corporation, or any proceeding, act or matter touching the same, upon notice thereof to the adverse party, or to those to be affected thereby, forthwith and in a summary way, hear the affidavits, proofs and allegations of the parties, or otherwise inquire into the matters or causes of complaint, and establish the election or order a new election, or make such order and give such relief as right and justice may require.

Former section 15.

See section 5, title 4, chap. 18, part 1, R. S., now repealed.

No one but a party named as aggrieved in the notice of application to set aside the election, is entitled to be heard. *Matter of Mohawk & H. R. R. Co.*, 19 Wend., 135.

A corporation has the right, under this section, to make application to the supreme court, for the purpose of establishing an election of its trustees, who have been declared elected, or to have the election set aside and a new election ordered. *Matter of Pioneer Paper Co.*, 36 How., 111.

On such application, notice to the persons who claim to have been elected, and to the corporation, if not made by it, is sufficient. *Schoharie Valley R. R. Co.*, 12 Abb., N. S., 394. It is not necessary that all the stockholders have notice of the application. Id.

This section does not authorize any person whomsoever, who chooses to make a complaint, to institute the proceeding. *Matter of Application of Syracuse, C. & N. Y. R. R. Co.*, 91 N. Y., 1. But it must be some person, whose rights have been infringed, and who is justly entitled to complain. Id.

Where an application is made, under this section, to settle contests arising out of a disputed election, the court may go behind the entries in the transfer book of the company, and determine whether a transfer appearing thereon was a sale or only a pledge of the shares, and whether the pledgor or pledgee was entitled to vote thereon. *Matter of Strong v. Smith*, 15 Hun, 222.

The continuous neglect of corporation, for a number of years, to hold any election of officers, affords a proper case for the issue of a *mandamus* on the relation of a corporator, without proof of a special request to the directors to hold an election. *People ex rel. Walker v. Albany Hospital*, 11 Abb., N. S., 4.

A *mandamus* will lie to compel an election of the officers of a corporation, other than municipal, if a proper case is made. *People ex rel. Walker v. Albany Hospital*, 11 Abb., N. S., 4.

§ 28. Stay of proceedings in actions collusively brought.—If an action is brought against a corporation by the procurement or default of its directors, or any of them, to enforce any claim or obligation declared void by law, or to which the corporation has a valid defense,

GENERAL CORPORATION LAW.

and such action is in the interest or for the benefit of any director, and the corporation has by its connivance made default in such action, or consented to the validity of such claim or obligation, any member of the corporation may apply to the supreme court, upon affidavit, setting forth the facts, for a stay of proceedings in such action, and on proof of the facts in such further manner and upon such notice as the court may direct, it may stay such proceedings or set aside and vacate the same, or grant such other relief as may seem proper, and which will not injuriously affect an innocent party, who, without notice of such wrongdoing and for a valuable consideration, has acquired rights under such proceedings.

Former section 16 amended.

See section 4, chap. 151 of 1870, now repealed.

Stockholders may assert and maintain rights of company, when it is in no position to assert its rights, and such rights are suffered to remain unenforced. *Barr v. N. Y. L. E. & W. R. R. Co.*, 125 N. Y., 263.

When one trustee may bring suit for accounting on behalf of the corporation. *Recamier Mfg. Co. v. Seymour*, 15 Daly, 245.

Action may be maintained, where proper case shall be disclosed, by stockholders, or others interested in property of corporation, to vindicate and sustain rights of company alone, against alleged misconduct of its directors. *Rogers v. Phelps*, 31 N. Y. St. Rep., 872.

But such action can not be maintained, where there is no diversion authorized, which will, in any manner, diminish or impair rights or interests of stockholders themselves in assets or property of company. *Id.*

Action against corporation to influence corporate action, can not be maintained. *Thomas v. M. M. P. Union*, 121 N. Y., 45.

Equity interferes only in case of irreparable injury or inadequate remedy at law. *Id.*

Action will not lie to declare certain by-laws void, and prevent enforcement. *Id.*

Stockholder's action lies without previous application to officers to sue, where object is relief from their own misconduct. *Mayers v. Scott*, 20 N. Y. St. Rep., 35.

So, such application is unnecessary, where action is to protect rights of individual shareholders suing, as distinguished from those of corporation. *Id.*

Mere creditor of stockholder and of corporation can not maintain action to avoid transfer by company. *Berford v. New York I. Mine*, 56 Super., 236.

Complaint held to state facts constituting cause of action against directors of corporation, for alienation or threatened alienation of corporate property. *Phoenix Nat. Bk. v. Clev. Co.*, 34 N. Y. St. Rep., 498.

Complaint, in action by stockholders, held sufficient to entitle them to equitable relief against fraudulent conduct of officers of corporation. *Meyers v. Scott*, 20 N. Y. St. Rep., 35.

When action by creditor and shareholder against directors for misconduct, injunction *pendente lite*, proper. *Hoyt v. Malone*, 31 N. Y. St. Rep., 739.

Where necessity for injunction exists, courts of this state may enjoin corporation, formed under its laws, from proceeding in action pending in another state. *Gibson v. A. L. & T. Co.*, 58 Hun, 443.

Facts held sufficient to justify continuing injunction to restrain collection of judgments against insolvent companies. *Pierce v. Mayer*, 36 N. Y. St. Rep., 829.

Right of resident stockholder, to maintain action for injunction against foreign corporation. *Ives v. Smith*, 28 N. Y. St. Rep., 917.

When injunction *pendente lite* will be continued. *Id.*

Action may be maintained against receiver of corporation, for tort committed before his appointment. *Decker v. Gardner*, 33 N. Y. St. Rep., 541.

Summons cannot be served upon assistant treasurer of domestic corporation. *Winslow v. Staten I. P. T. Co.*, 51 Hun, 296.

Person, who receives and handles all money received by foreign corporation in this state, is cashier within meaning of section 483 of Code. *McCulloh v. P. N. W. Co.*, 38 N. Y. St. Rep., 406.

GENERAL CORPORATION LAW.

When resident agent of foreign corporation is "managing agent," for purpose of service of summons. *Tuchband v. C. & A. R. R. Co.*, 24 N. Y. St. Rep., 236.

Term "managing agent," in section 482 of Code, defined. *Tuchband v. C. & A. R. R. Co.*, 115 N. Y., 437.

Service of summons upon general superintendent of telephone company is good. *Barrett v. Amer. T. & T. Co.*, 56 Hun, 430.

When service of summons on director of corporation sufficient. *McElroy v. C. R. Co.*, 25 N. Y. St. Rep., 834.

Person, on whom service is made, must be either officer or managing agent of corporation. *Sturges v. C. J. Mfg. Co.*, 32 N. Y. St. Rep., 848; *aff'd* 33 id., 1028.

Fact that he resigned on purpose to avoid does not prevent service. *Id.*

Where no legal resignation of directors of business corporation has been made they remain such officers within the meaning of section 431 of Code. *Carnaghan v. R. & P. O. Co.*, 32 N. Y. St. Rep., 1117.

Section 9, chap. 195 of 1846, does not authorize service upon director of defendant of summons of kind prescribed by Code. *Quade v. N. Y., N. H. & H. R. R. Co.*, 39 N. Y. St. Rep., 157.

Authority of cashier or other officer of bank terminates at end of its corporate existence. *Hayden v. Bank of Syracuse*, 36 N. Y. St. Rep., 899.

After such event, service of summons, etc., upon former cashier does not constitute service upon corporation. *Id.*

Defunct bank can not be sued. *Id.*

Service of summons on former director, after he has sold his stock and new set of directors been selected, is nullity. *Beardsley v. Johnson*, 121 N. Y., 324.

Service of summons on attorney of corporation, whose appointment for such purpose never became operative to knowledge of plaintiff, will be set aside. *Richardson v. W. H. Ins. Co.*, 29 N. Y. St. Rep., 820.

Individual name of superintendent of insurance need not be inserted in his appointment as attorney under chap. 346 of 1884. *Lafflin v. T. Ins. Co.*, 31 N. Y. St. Rep., 900; *rev'g* 30 id., 1021.

Phrase "or his successor in office" may be added to his title. *Id.*

Appointment need not be authenticated in any particular manner, or so as to entitle it to be read in evidence. *Id.*

What proof necessary to support action by tax payer to restrain supervisor from paying highway commissioner's bills. *Warrin v. Van Nostrand*, 21 N. Y. St. Rep., 960.

Tax payer's action will be dismissed when brought actually in interest of private claimant and not for relief of tax payers. *Kimball v. Hewitt*, 15 Daly, 124.

When tax payer's suit can be maintained to prevent signing of contract by municipal authorities. *Armstrong v. Grant*, 56 Hun, 226.

Action by tax payer to restrain city, under chap. 531 of 1881, can not be maintained, where bid was lowest and made in good faith. *Boyle v. Grant*, 36 N. Y. St. Rep., 207.

Untrue statement in bid not made with intent to deceive or mislead city authorities, and known before acceptance, furnishes no ground for judicial interference. *Id.*

Action by tax payer to restrain action of common council, within its power and discretion, can not be maintained, without charge of fraud, collusion, corruption or bad faith. *Talcott v. Buffalo*, 125 N. Y., 280.

That officer has not passed civil service examination is not ground for tax payer's suit. *Peck v. Belknap*, 55 Hun, 91.

Appreciable wrong or substantial injury must be shown. *Id.*

Lamp superintendent is not subordinate officer, etc., within meaning of civil service act. *Id.*

Ziegler v. Hoagland, 52 Hun, 385; *Butts v. Wood*, 37 N. Y., 317; *Ogden v. Murray*, 39 id., 202; *Beveridge v. N. Y. E. R. R. Co.*, 112 id., 1, 28; *Meyers v. Scott*, 20 N. Y. St. Rep., 85; *Stromeyer v. Combes*, 18 id., 154; *Allen v. Railroad Co.*, 49 How., 14; *Smith v. Rathbun*, 66 Barb., 402; *Dinsmore v. Railroad Co.*, 46 How., 193; *Greaves v. Gonge*, 54 id., 272; *Meyer v. Scott*, 20 N. Y. St. Rep., 35; *Smith v. Rathbun*, 22 Hun, 150; *Brinckerhoff v. Bostwick*, 88 N. Y. 52; *Currier v. Railroad Co.*, 35 Hun, 855; *Barr v. Same*, 96 N. Y., 444.

§ 29. Quorum of directors and powers of majority.—The affairs of every corporation shall be managed by its board of directors,

GENERAL CORPORATION LAW.

at least two of whom shall be residents of this state. Unless otherwise provided by law a majority of the board of directors of a corporation at a meeting duly assembled shall be necessary to constitute a quorum for the transaction of business, and the act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors. Subject to the by-laws, if any, adopted by the members of a corporation, the directors may make necessary by-laws of the corporation.

Former section 17 amended.

See section 6, title 3, chap. 18, part 1, R. S.; and section 10, chap. 611 of 1875, now repealed.

Where a statute authorizes a select body of men to make by-laws, rules and regulations, a majority of that body at least is necessary to constitute a quorum. *Ex parte Wilcock*, 7 Cow., 402. Words in such a statute, directing that a majority of those present at a regular meeting shall be competent to do business, can not be construed as authorizing a minority of such body to act. *Id.*

Where a member of a board of directors presents to such board a bill for extra compensation as secretary, he is disqualified from acting upon the auditing of such bill. *Butts v. Wood*, 37 N. Y., 317. And if he must be included to constitute a quorum, the board so constituted is not qualified to act upon such bill so as to bind the corporation. *Id.*

Shareholder has legal right, at meeting, to vote upon measure, even though he has personal interest therein separate from other shareholders. *Gamble v. Queens Co. W. Co.*, 123 N. Y., 91.

What conduct of majority necessary to warrant interference of court in favor of minority. *Id.*

§ 30. Directors as trustees in case of dissolution.—Upon the dissolution of any corporation, its directors, unless other persons shall be appointed by the legislature, or by some court of competent jurisdiction, shall be the trustees of its creditors, stockholders or members, and shall have full power to settle its affairs, collect and pay outstanding debts, and divide among the persons entitled thereto the money and other property remaining after payment of debts and necessary expenses.

Such trustees shall have authority to sue for and recover the debts and property of the corporation, by their name as such trustees, and shall jointly and severally be personally liable to its creditors, stockholders or members, to the extent of its property and effects that shall come into their hands.

Former sections 19 and 20 consolidated.

See section 9, title 3, chap. 18, part 1, R. S., now repealed.

See section 10, title 3, chap. 18, part 1, R. S., section 3, chap. 67 of 1811, and section 3, chap. 40 of 1848, now repealed.

The provision now in force, declaring that, on the dissolution of a corporation, the directors, unless some other person shall be designated, shall be trustees of its creditors, stockholders or members, was originally copied from section 1, 1 R. L., 248.

This section does not in terms create a lien of any kind on the corporate property. *Tinkham v. Borst*, 31 Barb., 407. It recognizes very distinctly the right of creditors and stockholders to the assets, and constitutes the directors the trustees to take charge of them for the parties entitled. *Id.* The creditors of dissolved corporations have a lien on the assets for the payment of their debts. *Id.* Where

a fund exists in this state which our own citizens are entitled to have applied to the payment of their debts, the courts will detain and appropriate the fund, but will not disregard the rights of other parties. *Id.*

Upon the dissolution of a corporation, its remaining trustees become vested with the title of its property, and responsible to its creditors and stockholders for the value thereof. *People v. O'Brien*, 111 N. Y., 1; *Dash v. Van Kleick*, 7 Johns., 477. The trustees succeed to all the rights and privileges of directors and to the same means of defense. *Kain v. Bloodgood*, 7 Johns. Ch., 90, 128. All the property and rights of the corporation become vested in the directors then in office, unless the repealing act provides for the appointment of other persons than its officers as trustees. *McLaren v. Pennington*, 1 Paige, 102.

The directors or managers, upon the dissolution of a corporation, become trustees of its property, unless some other custodian is appointed, for the purpose of paying its debts and dividing its property among its stockholders. *Heath v. Barmore*, 50 N. Y., 305; *Towar v. Hale*, 46 Barb., 361.

The above section applies as well to the real estate as to the personal property of corporations. *Id.* The legal title vests in the body corporate during its life, and, upon its dissolution, in the trustees in office at the time, in trust for the creditors and stockholders. *Central City Sav. Bk. v. Walker*, 66 N. Y., 428.

There is nothing in this section to restrict its provisions to personality. *Owen v. Smith*, 31 Barb., 641. The equity of the creditors and stockholders is the same in respect to all species of property. *Id.* Upon the dissolution of a corporation, the title to real property held by it does not revert to the original proprietors and grantors, or their heirs, but vests in the receiver of the corporation. *Id.* The property, real and personal, is to be administered by him for the benefit of creditors and stockholders. *Id.*

Upon the dissolution of a corporation, at common law, all its real estate unsold reverted back to the original grantor or his heirs; the debts to and from the corporation were extinguished, and all the personal estate of the corporation vested in the people. *Huntley v. Beecher*, 30 Barb., 580. But, in this state, these consequences are guarded against by statute. *Id.*

The rule at common law does not prevail here. Where lands are conveyed absolutely to a corporation having stockholders, no reversion or possibility of a reverter remains in the grantor. *Heath v. Barmore*, 50 N. Y., 302.

The charter of a dissolved corporation may be extended by a legislative act. *Huntley v. Beecher*, 30 Barb., 580. In such case, it retains its property, and remains liable upon its obligations. *Id.*

The provisions of this section apply to all corporations created or to be created. *Towar v. Hale*, 46 Barb., 361. They preclude the idea of land reverting to the original grantor, until at least all the debts owing by the corporation are paid. *Id.*

This section expressly limits the liability of the directors as trustees, upon the dissolution of the corporation, to the extent of the property and effects that shall come into their hands. *Hoffman v. Van Nostrand*, 42 Barb., 174. They are not liable for the value of stock to one who had deposited it as collateral security with the corporation, which had been sold by it previous to its dissolution. *Id.*

Upon the dissolution of a corporation, the directors then in office become trustees to settle up its affairs, and suits must then be commenced in the names of such trustees. *Lond. I. F. Co. v. Terbell*, 48 N. Y., 427.

Where the charter of a corporation expires by its own limitation, while an action for a tort is pending against it, the court has power to continue the action against the statutory trustees under this section. *Hepworth v. Union Ferry Co.*, 62 Hun, 257. The statute creditor embraces those persons whose claims are based upon torts. *Id.*

It is a general principle that a cause of forfeiture cannot be taken advantage of, or enforced, against a corporation collaterally, or incidentally, or in any other mode than by a direct proceeding for that purpose against the corporation, so that it may have an opportunity to answer. *Towar v. Hale*, 46 Barb., 361.

Where the state seeks by action to destroy the life of a corporation, it must, it seems, show some grave misconduct, on the part of the latter, which has produced, or tends to produce, injury to the public. *People v. North R. S. R. Co.*, 121 N. Y., 583. When such transgression affects the welfare of the people, they may by action summon the offending corporation to answer for the abuse of its franchise, and ask to have its charter forfeited, and itself dissolved. *People v. North R. S. R. Co.*, 121 N. Y., 583.

GENERAL CORPORATION LAW.

Sufficient order to show cause, under section 2423 of Code, in proceedings for voluntary dissolution of corporation. *Matter of Christian J. Co.*, 40 N. Y. St. Rep., 621.

If such order is defective for not complying with section 2424 of Code, it does not render appointment of receiver nullity. *Id.*

It must be taken advantage of by motion. *Id.*

It can be amended *nunc pro tunc*. *Id.*

Court may prevent any subsequent interference with its property under writ of replevin or attachment. *Id.*

After receiver files his bond, his title relates back to date of appointment. *Id.*

Omission in petition for voluntary dissolution, which does not show lack of good faith nor fraudulent purpose, may be obviated by evidence. *Matter of Santa E. S. M. Co.*, 21 N. Y. St. Rep., 89.

Order to show cause, in voluntary proceedings for dissolution of corporation, held, in this case, to be substantial compliance with section 2423 of Code. *Matter of Christian J. Co.*, 39 N. Y. St. Rep., 379.

People can not maintain action, under sections 1781, 1782 of Code, to redress strictly private wrong. *People v. Ballard*, 56 Hun, 125.

Causes of action for sequestration of property of corporation, and to charge stockholders with individual liability, are properly united. *Woodard v. Holland M. Co.*, 39 N. Y. St. Rep., 411.

Sufficiency of allegation of complaint as to non-payment of capital stock. *Id.*

One creditor may bring such action. *Id.*

In such action it is not necessary to state in complaint facts upon which judgment against corporation was obtained. *Id.*

Order of dissolution, under section 2429 of Code, should be granted, where no benefit can result by continuing its existence. *Matter of I. & G. Exchange*, 15 Daly, 413.

When receiver may be appointed to enforce judgment against corporation. *King v. Barnes*, 51 Hun, 550.

Court may, under certain circumstances, authorize receiver to advance money to corporation, taking security therefor, to enable it to continue its business. *Kalbfleisch v. Kalbfleisch*, 37 N. Y. St. Rep., 183.

Court may authorize receiver to issue certificates and borrow money thereon, to pay necessary running expenses and for necessary rolling stock. *Central T. Co. v. Tappen*, 25 N. Y. St. Rep., 635.

Facts warranting exercise of court's discretion. *Id.*

Such certificates are paramount liens. *Id.*

Amount paid, under order subsequently reversed, can be recovered, or deducted, by receiver from subsequent dividend due claimant in excess of percentage payable to general creditors. *People v. Remington & Sons*; *Whitfield v. Russell*, 60 Hun, 42.

Receiver of corporation can not enforce agreement by president with creditor to mutually postpone enforcement of claims against it for indefinite period. *Snow v. R. C. F. Co.*, 58 Hun, 134.

All directors, shareholders and creditors in corporation, have right to transfer to themselves patent rights held by corporation and substitute their notes therefor. *Skinner v. Smith*, 56 Hun, 437.

The business of ordinary trading or manufacturing corporation may be wound up whenever majority of its stockholders deem it expedient. *Id.*

Receiver of corporation will not be compelled to account, where it appears that no property of corporation has come into his hands. *Lyons v. A. H. G. M. & M. Co.*, 38 N. Y. St. Rep., 892.

Application by receiver of dissolved corporation for warrant of arrest must be made on notice to Attorney-General. *Matter of Vanamee*, 29 N. Y. St. Rep., 198.

What proof must be made for such purpose. *Id.*

Receiver of insolvent corporation, legally appointed, may institute proceedings to examine officer as to concealed assets. *Matter of Stonebridge*, 37 N. Y. St. Rep., 617.

Statement of what facts in affidavit sufficient to sustain warrant. *Id.*

Denial or explanation is no reason for its refusal. *Id.*

Warrant against one having property of corporation must be applied for on notice to Attorney-General. *Matter of Stonebridge* (Sup. Ct. 1890), 32, 1070; 57 Hun, 441.

GENERAL CORPORATION LAW.

Such party is not bound to account until first publication of notice of appointment of receiver. *Id.*

What notice insufficient in such case. *Id.*

Injunction against creditors of dissolved corporation will not be so modified, after appointment of receiver, as to permit entry of judgment in prior action and issue of execution, before substitution of receiver as party defendant. *Matter of Vertical T. B. Co.*, 38 N. Y. St. Rep., 528.

Order for stay of all proceedings, on appeal from order annulling charter, will be denied, where order has been granted directing receiver to make no sale or distribution of property until further order of court. *People v. N. R. S. R. Co.*, 25 N. Y. St. Rep., 569.

Stock can not be transferred so as to pass a legal title after the dissolution of the corporation. *James v. Woodruff*, 2 Denio, 574. In such case, the interests of the several stockholders become equitable rights to a proportionate share of the assets after payment of the debts. *Id.*

A stockholder who is indebted to the company at the time of its dissolution, is only entitled to his share of the effects after deducting the amount which he may owe. *James v. Woodruff*, 2 Denio, 574.

An assignee of a stockholder in a dissolved corporation takes the interest of the assignor, subject to all claims which the corporation has against him. *James v. Woodruff*, 2 Denio, 574.

Where the debtor of a dissolved corporation becomes a purchaser of its stock, his debt will be deducted from his share of the assets. *James v. Woodruff*, 2 Denio, 574. His assignee or vendee takes it subject to a like deduction. *Id.*

The appointment of a receiver after the commencement of an action to recover the unpaid balance of the subscription to the capital stock does not cause the suit to abate, but it may be continued by the receiver in the name of the original party. *Phoenix W. Co. v. Badger*, 6 Hun, 293; *Albany, etc., Co. v. Van Vranken*, 43 How., 281; *Tracy v. First Nat. Bk.*, 37 N. Y., 523.

§31. Forfeiture for non-user.—If any corporation, except a railroad, turnpike, plank-road or bridge corporation, shall not organize and commence the transaction of its business or undertake the discharge of its corporate duties within two years from the date of its incorporation, its corporate powers shall cease.

Former section 21.

See section 7, title 3, chap. 18, part 1, R. S., and section 8, chap. 611 of 1875, now repealed.

Action to dissolve corporation may be maintained, when it has suspended its ordinary and lawful business for at least one year. *People v. Seneca L. G. and W. Co.*, 52 Hun, 174.

Government, creating corporation, can alone, as general rule, enforce cause of forfeiture. *Id.*

Proceedings to dissolve by directors is no bar to action by people to dissolve because of forfeiture of charter. *Id.*

Notice of voluntary application to dissolve corporation must be served upon Attorney-General, otherwise order is void. *Id.*

Action for forfeiture of charter on ground of suspension of business can not be maintained unless continued for a year. *People v. A. A. R. R. Co.*, 125 N. Y., 513.

Omission to run trains for five days will not suffice. *Id.*

Failure to observe chap. 529 of 1887, is not legal cause for forfeiture. *Id.*

Neither six days discontinuance of business, nor exactions from its employees of more than ten hours labor a day, is ground for action to dissolve corporation. *People v. A. A. R. C.*, 57 Hun, 378.

Code authorizes action to dissolve corporation when it has violated any provision of law, whereby it has forfeited its charter or become liable to be dissolved by abuse of its power. *People v. North R. S. R. Co.*, 121 N. Y., 582.

What constitutes actual corporate conduct. *Id.*

Leave to renew action to forfeit charter will not be granted, where corporations, relying upon discontinuance of former proceedings, has increased its capital and made contracts to complete its works. *Matter of People v. E. G. L. Co.*, 32 N. Y. St. Rep., 1128.

GENERAL CORPORATION LAW.

It is the general principle that a corporation, by omitting to perform a duty imposed by its charter or to comply with its provisions, does not *ipso facto* lose its corporate character or cease to be a corporation, but simply exposes itself to the danger of being deprived of its corporate character and franchises by the judgment of the court in an action instituted for that purpose by the Attorney-General in behalf of the people. *Brooklyn S. T. Co. v. City of Brooklyn*, 78 N. Y., 524. Still the Legislature has the power to provide that a corporation may lose its corporate existence without the intervention of the courts, by any omission of duty or violation of its charter or default as to limitations imposed. *Id.* It is immaterial whether such provision is contained in, and the corporation is organized under, a general law or a special charter. *Id.* In such case it needs no action or judicial procedure to declare or complete a forfeiture of the charter and loss of corporate power. *Matter of Brooklyn, etc., R. R. Co.*, 75 N. Y., 335; 72 *id.*, 245. The statute executes itself. *Id.* The loss of its corporate rights and powers may be asserted by any one whose rights may be affected by its assumption of corporate powers. *Id.*

Cause of forfeiture does not *per se* work forfeiture without judicial determination, unless it was intended that the statute should execute itself. *Matter of Brooklyn E. R. Co.*, 32 N. Y. St. Rep., 1065; *aff'd* 35 *id.*, 45.

A forfeiture of the franchises of a corporation, unless there is some special provision by statute, can be enforced only by the sovereign power to which the corporation owes its life, in some proceeding instituted in behalf of such sovereignty. *Denike v. N. Y. & R. L. & C. Co.*, 80 N. Y., 599.

An action to dissolve such corporation can not be maintained by a portion of the stockholders. *Id.*

In the absence of proof of fraud, mismanagement or wrong-doing on the part of the directors, it is discretionary with the court to appoint a receiver of the property of the corporation, though utterly insolvent; the stockholders have no absolute right to such appointment. *Id.*

A corporation can not be said to have committed an act of insolvency, or to have neglected or refused to pay its obligations, because its demand notes remain outstanding until payment has been demanded. *Id.*

An unlawful lease of the corporate property does not give a portion of the stockholders a standing in a court of equity to ask for a dissolution of the corporation. *Id.*

A corporation, which has been enjoined from the exercise of its corporate franchises and deprived of its property, and thus ceased to exist for all practical purposes, is not thereby actually dissolved. *Kincaid v. Dwinelle*, 59 N. Y., 548.

To effect a dissolution of a corporation there must be a judgment of a court of competent jurisdiction declaring it dissolved. *Id.* *Hollingshead v. Woodward*, 35 Hun, 410.

Until such judgment, creditors may proceed by suit against the corporation, unless restrained by injunction. *Id.*; *People v. President, etc.*, 9 Wend., 351; *Matter of Ref. Pres. Ch.*, 7 How., 476; *Mickles v. Rochester City Bk.*, 11 Paige, 118.

A corporation can not be held to be actually dissolved till so adjudged and determined, either by judicial sentence or sovereign power. *Kincaid v. Dwinelle, ante.*

In *Slee v. Bloom*, 19 Johns., 456, the corporation was held to be dissolved by the non-election of trustees and non-user of the franchises for a length of time, and a sale by the sheriff of all its real and personal property on execution. The acts done and suffered to be done, were regarded as equivalent to a direct surrender of the charter.

Until judgment dissolving the corporation and ending its existence, a contract can be enforced against the company as well after as before the appointment of a receiver. *Pringle v. Woolworth*, 90 N. Y., 502.

A corporation may appeal from a judgment declaring it to be dissolved, and from the orders based on the judgment or growing out of the proceedings taken to enforce it. *Kelsey v. Pfaudler P., etc., Co.*, 15 Abb. N. C., 427.

The dissolution of a corporation must be judicially ascertained and declared. *Plass v. Housman*, 17 N. Y. St. Rep., 671.

§ 32. Extension of corporate existence.—Any domestic corporation at any time within three years before the expiration thereof, may extend the term of its existence beyond the time specified in its

GENERAL CORPORATION LAW.

original certificate of incorporation, or by-law, or in any certificate of extension of corporate existence, by the consent of the stockholders owning two-thirds in amount of its capital stock, if not a stock corporation, by the consent of two-thirds of its members, in and by a certificate signed and acknowledged by them and filed in the offices in which the original certificates of its incorporation were filed, if at all, and, if not, then in the offices where certificates of incorporation are now required by law to be filed, and the officers with whom the same may be filed shall thereupon record them in the books kept in their respective offices for the record of such certificates, and make a memorandum of such record in the margin of the original certificate in such book, if any, and thereupon the time of existence of such corporation shall be extended, as designated in such certificate, for a term not exceeding the term for which it was incorporated in the first instance. If the term of existence of any domestic corporation shall have expired and it shall be made satisfactorily to appear to the supreme court that such corporation was legally organized pursuant to any law of this state, and that through mistake it shall have issued its bonds payable at a date beyond the date fixed in its charter or certificate of incorporation for the expiration of its corporate existence, and such bonds shall be unmatured and unpaid, the supreme court may, upon the application of any person interested and upon such notice to such other parties as the court may require, by order, authorize the filing and recording of a certificate reviving the existence of such corporation, upon such conditions and with such limitations as such order shall specify, and extending such corporate existence for a term not exceeding the term for which it was originally incorporated. Upon filing and recording such certificate in the same manner as a certificate of extension of corporate existence duly issued before the expiration of the existence of a domestic corporation is authorized by law to be filed and recorded, such corporate existence shall be revived and extended in pursuance of the terms of such order, but such revival and extension shall not affect any litigation commenced after such expiration and pending at the time of such revival.

If a corporation formed under or subject to the banking law, such certificate shall not be filed or recorded unless it shall have indorsed thereon the written approval of the superintendent of banks; or, if an insurance corporation, unless it shall have indorsed thereon the written approval of the superintendent of insurance; and, if a turnpike or bridge corporation, it shall not be filed unless it shall have indorsed thereon or annexed thereto a certified copy of a resolution of the board of supervisors of each county in which such turnpike or bridge is located, approving of and authorizing such extension.

GENERAL CORPORATION LAW.

Every corporation extending its corporate existence under this chapter or under any general law of the state shall thereafter be subject to the provisions of this chapter and of such general law, notwithstanding any special provisions in its charter, and shall thereafter be deemed to be incorporated under the general laws of the state relating to the incorporation of a corporation for the purpose of carrying on the business in which it is engaged, and shall be subject to the provisions of such laws.

Former section 22 amended.

See section 2, chap. 29 of 1857, section 2 of chap. 12 of 1867, section 1, chap. 937 of 1867, and section 29, chap. 611 of 1875, now repealed.

See *People ex rel. Clauson v. Newburgh, etc., R. R. Co.*, 86 N. Y., 1.

§ 33. **Conflicting corporate laws.**—If in any corporate law there is or shall be any provision in conflict with any provisions of this chapter or of the stock corporation law, the provisions so conflicting shall prevail, and the provision of this chapter or of the stock corporation law with which it conflicts shall not apply in such a case. If in any such law there is or shall be a provision relating to a matter embraced in this chapter or in the stock corporation law, but not in conflict with it, such provision in such other law shall be deemed to be in addition to the provision in this chapter or in the stock corporation law relating to the same subject-matter, and both provisions shall, in such case, be applicable.

New.

§ 34. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed. Such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed.

Former section 23.

People v. O'Brien, 111 N. Y., 1.

§ 35. **Saving clause.**—The repeal of a law or any part of it specified in the annexed schedule shall not affect or impair any act done, or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to May 1, 1891, under or by virtue of any law so repealed, but the same may be asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if such law had not been repealed. All actions and proceedings, civil or criminal, commenced under or by virtue of the laws so repealed, and pending on April 30, 1891, may be prosecuted and defended to final effect in the same manner as they might under the laws then existing, unless it shall be otherwise specially provided by law.

Former section 24.

GENERAL CORPORATION LAW.

§ 36. Construction.—The provisions of this chapter, and of the stock corporation law, the railroad law, the transportation corporations law, and the business corporations law, so far as they are substantially the same as those of laws existing on April 30, 1891, shall be construed as a continuation of such laws modified or amended according to the language employed in this chapter, or in the stock corporation law, the railroad law, the transportation corporations law, or the business corporations law, and not as new enactments.

References in laws not repealed to provisions of laws incorporated into the general laws hereinbefore enumerated and repealed, shall be construed as applying to the provisions so incorporated.

Nothing in this chapter or in the other general laws hereinbefore specified shall be construed to amend or repeal any provision of the Criminal or Penal Code or to impair any right or liability which any existing corporation, its officers, directors, stockholders or creditors may have or be subject to or which any such corporation, other than a railroad corporation, had or was subject to on April 30, 1891, by virtue of any special act of the legislature creating such corporation or creating or defining any such right or liability, unless such special act is repealed by this chapter.

Former section 25 amended.

§ 37. Law revived.—Chapter three hundred of the laws of eighteen hundred and fifty-five, entitled "An act to incorporate the Baptist Historical Society of the city of New York," which was inadvertently repealed by the transportation corporations law, is revived and reenacted, and shall be of the same force and effect as if it had not been repealed.

GENERAL CORPORATION LAW.
SCHEDULE OF LAWS REPEALED.

REVISED STATUTES.	Part I, chapter 12.	AR.
Laws of	Chapter	SECTIONS.
1811.....	67.....	All.
1815.....	47.....	All.
1815.....	202.....	All.
1816.....	58.....	All.
1817.....	223.....	All.
1818.....	67.....	All.
1819.....	102.....	All.
1821.....	14.....	All.
1822.....	213.....	All.
1836.....	284.....	All.
1836.....	316.....	All.
1838.....	160.....	All.
1838.....	161.....	All.
1838.....	262.....	All.
1839.....	218.....	All.
1842.....	165.....	All.
1846.....	155.....	All.
1846.....	215.....	17, 18.
1847.....	100.....	3, 4.
1847.....	210.....	All.
1847.....	222.....	All.
1847.....	270.....	All.
1847.....	272.....	All.
1847.....	287.....	All.
1847.....	398.....	All.
1847.....	404.....	All.
1847.....	405.....	All.
1848.....	37.....	All.
1848.....	40.....	All.
1848.....	45.....	All.
1848.....	259.....	All.
1848.....	265.....	All.
1848.....	360.....	All.
1849.....	250.....	All.
1849.....	362.....	All.
1850.....	71.....	All.
1850.....	140.....	All.
1851.....	14.....	All.
1851.....	19.....	All.
1851.....	98.....	All.
1851.....	107.....	All.
1851.....	487.....	All.
1851.....	497.....	All.
1852.....	228.....	All.
1852.....	372.....	All.

GENERAL CORPORATION LAW.

SCHEDULE OF LAWS REPEALED — (Continued.)

Laws of	Chapter	SECTIONS.
1853.....	53.....	All.
1853.....	117.....	All.
1853.....	124.....	All.
1853.....	135.....	All.
1853.....	245.....	All.
1853.....	333.....	All.
1853.....	471.....	1, 2, 4.
1853.....	481.....	All.
1853.....	502.....	All.
1853.....	626.....	All.
1854.....	3.....	All.
1854.....	87.....	All.
1854.....	140.....	All.
1854.....	201.....	All.
1854.....	232.....	All.
1854.....	269.....	All.
1854.....	282.....	All.
1854.....	312.....	All.
1855.....	301.....	All.
1855.....	302.....	All.
1855.....	390.....	All.
1855.....	478.....	All.
1855.....	485.....	All.
1855.....	495.....	All.
1855.....	546.....	All.
1855.....	559.....	All.
1856.....	65.....	All.
1857.....	29.....	All.
1857.....	83.....	All.
1857.....	185.....	All.
1857.....	202.....	All.
1857.....	262.....	All.
1857.....	444.....	All.
1857.....	546.....	All.
1857.....	558.....	All.
1857.....	643.....	All.
1857.....	776.....	All.
1858.....	10.....	All.
1858.....	125.....	All.
1859.....	209.....	All.
1859.....	311.....	All.
1859.....	455.....	All.
1860.....	116.....	All.
1860.....	269.....	All.
1860.....	523.....	All.
1861.....	149.....	All.
1861.....	170.....	All.
1861.....	215.....	All.

GENERAL CORPORATION LAW.

SCHEDULE OF LAWS REPEALED — (Continued.)

Laws of	Chapter	SECTIONS.
1861.....	238.....	All.
1862.....	206.....	All.
1862.....	248.....	All.
1862.....	425.....	All.
1862.....	438.....	All.
1862.....	449.....	All.
1862.....	472.....	All.
1863.....	63.....	All.
1863.....	134.....	All.
1863.....	346.....	All.
1864.....	85.....	All.
1864.....	337.....	All.
1864.....	517.....	All.
1864.....	582.....	All.
1865.....	234.....	All.
1865.....	246.....	All.
1865.....	307.....	All.
1865.....	691.....	All.
1865.....	780.....	All.
1866.....	73.....	All.
1866.....	259.....	All.
1866.....	322.....	All.
1866.....	371.....	All.
1866.....	697.....	All.
1866.....	780.....	All.
1866.....	799.....	All.
1866.....	838.....	All.
1867.....	12.....	All.
1867.....	49.....	All.
1867.....	248.....	All.
1867.....	254.....	All.
1867.....	419.....	All.
1867.....	480.....	All.
1867.....	509.....	All.
1867.....	775.....	All.
1867.....	908.....	All.
1867.....	937.....	All.
1867.....	960.....	All.
1867.....	974.....	All.
1868.....	253.....	All.
1868.....	290.....	All.
1868.....	573.....	All.
1868.....	781.....	All.
1869.....	234.....	All.
1869.....	237.....	All.
1869.....	605.....	All.
1869.....	706.....	All.
1869.....	844.....	All.

GENERAL CORPORATION LAW.

SCHEDULE OF LAWS REPEALED — (Continued.)

Laws of	Chapter	SECTIONS.
1869.....	917.....	All.
1870.....	124.....	All.
1870.....	135.....	All.
1870.....	322.....	All.
1870.....	443.....	All.
1870.....	568.....	All.
1870.....	773.....	All.
1871.....	95.....	All.
1871.....	481.....	All.
1871.....	535.....	All.
1871.....	560.....	All.
1871.....	657.....	All.
1871.....	669.....	All.
1871.....	697.....	All.
1871.....	883.....	All.
1872.....	81.....	All.
1872.....	128.....	All.
1872.....	146.....	All.
1872.....	248.....	All.
1872.....	283.....	All.
1872.....	350.....	All.
1872.....	374.....	All.
1872.....	426.....	All.
1872.....	609.....	All.
1872.....	611.....	All.
1872.....	779.....	All.
1872.....	780.....	All.
1872.....	820.....	All except 20.
1872.....	829.....	All.
1872.....	843.....	All.
1873.....	151.....	All.
1873.....	352.....	All.
1873.....	432.....	All.
1873.....	440.....	All.
1873.....	469.....	All.
1873.....	616.....	All.
1873.....	710.....	All.
1873.....	737.....	All.
1873.....	814.....	All.
1874.....	76.....	All.
1874.....	143.....	All.
1874.....	149.....	All.
1874.....	240.....	All.
1874.....	288.....	All.
1874.....	430.....	All.
1875.....	4.....	All.
1875.....	58.....	All.
1875.....	88.....	All.

GENERAL CORPORATION LAW.

SCHEDULE OF LAWS REPEALED — (Continued.)

Laws of	Chapter	SECTIONS.
1875.....	108.....	All.
1875.....	113.....	All.
1875.....	119.....	All.
1875.....	120.....	All.
1875.....	159.....	All.
1875.....	193.....	All.
1875.....	256.....	All.
1875.....	319.....	All.
1875.....	365.....	All.
1875.....	445.....	All.
1875.....	510.....	All.
1875.....	586.....	All.
1875.....	598.....	All.
1875.....	606.....	All.
1875.....	611.....	All.
1876.....	77.....	All.
1876.....	135.....	All.
1876.....	198.....	All.
1876.....	280.....	All.
1876.....	358.....	All.
1876.....	373.....	All.
1876.....	415.....	All.
1876.....	435.....	All.
1876.....	446.....	All.
1877.....	103.....	All.
1877.....	158.....	All.
1877.....	164.....	All.
1877.....	171.....	All.
1877.....	224.....	All.
1877.....	266.....	All.
1877.....	374.....	All.
1878.....	61.....	All.
1878.....	121.....	All.
1878.....	163.....	All.
1878.....	203.....	All.
1878.....	210.....	All.
1878.....	261.....	All.
1878.....	264.....	All.
1878.....	316.....	All.
1878.....	334.....	All.
1878.....	394.....	All.
1879.....	214.....	All.
1879.....	253.....	All.
1879.....	290.....	All.
1879.....	293.....	All.
1879.....	350.....	All.
1879.....	377.....	All.
1879.....	393.....	All.

GENERAL CORPORATION LAW.

SCHEDULE OF LAWS REPEALED — (Continued.)

Laws of	Chapter	SECTIONS.
1879.....	395.....	All.
1879.....	413.....	All.
1879.....	415.....	All.
1879.....	441.....	All.
1879.....	503.....	All.
1879.....	505.....	All.
1879.....	512.....	All.
1879.....	541.....	All.
1880.....	5.....	All.
1880.....	85.....	All.
1880.....	90.....	All.
1880.....	94.....	All.
1880.....	113.....	All.
1880.....	133.....	All.
1880.....	155.....	All.
1880.....	182.....	All.
1880.....	187.....	All.
1880.....	223.....	All.
1880.....	225.....	All.
1880.....	241.....	All.
1880.....	254.....	All.
1880.....	263.....	All.
1880.....	267.....	All.
1880.....	349.....	All.
1880.....	415.....	All.
1880.....	417.....	All.
1880.....	484.....	All.
1880.....	510.....	All.
1880.....	575.....	All.
1880.....	582.....	All.
1880.....	583.....	All.
1880.....	585.....	All.
1881.....	22.....	All.
1881.....	58.....	All.
1881.....	77.....	All.
1881.....	117.....	All.
1881.....	148.....	All.
1881.....	213.....	All.
1881.....	232.....	All.
1881.....	295.....	All.
1881.....	296.....	All.
1881.....	311.....	All.
1881.....	313.....	All.
1881.....	321.....	All.
1881.....	337.....	All.
1881.....	338.....	All.
1881.....	351.....	All.
1881.....	399.....	All.

GENERAL CORPORATION LAW.

SCHEDULE OF LAWS REPEALED — (Continued.)

Laws of	Chapter	SECTIONS.
1881.....	422.....	All.
1881.....	464.....	All.
1881.....	468.....	All.
1881.....	470.....	All.
1881.....	472.....	All.
1881.....	485.....	All.
1881.....	551.....	All.
1881.....	589.....	All.
1881.....	649.....	All.
1881.....	650.....	All.
1881.....	674.....	All.
1881.....	685.....	All.
1882.....	73.....	All.
1882.....	82.....	All.
1882.....	140.....	All.
1882.....	273.....	All.
1882.....	289.....	All.
1882.....	290.....	All.
1882.....	306.....	All.
1882.....	309.....	All.
1882.....	349.....	All.
1882.....	353.....	All.
1882.....	393.....	All.
1882.....	405.....	All.
1883.....	46.....	All.
1883.....	71.....	All.
1883.....	102.....	All.
1883.....	216.....	All.
1883.....	232.....	All.
1883.....	237.....	All.
1883.....	238.....	All.
1883.....	240.....	All.
1883.....	287.....	All.
1883.....	323.....	All.
1883.....	361.....	All.
1883.....	381.....	All.
1883.....	382.....	All.
1883.....	384.....	All.
1883.....	386.....	All.
1883.....	387.....	All.
1883.....	388.....	All.
1883.....	409.....	All.
1883.....	482.....	All.
1883.....	483.....	All.
1883.....	497.....	All.
1884.....	140.....	All.
1884.....	193.....	All.
1884.....	206.....	All.

GENERAL CORPORATION LAW.

SCHEDULE OF LAWS REPEALED—(Continued.)

Laws of	Chapter	SECTIONS.
1884.....	223.....	All.
1884.....	252.....	All.
1884.....	267.....	All.
1884.....	367.....	All.
1884.....	386.....	All.
1884.....	397.....	All.
1884.....	421.....	All.
1884.....	422.....	All.
1884.....	439.....	All.
1884.....	441.....	All.
1884.....	444.....	All.
1885.....	84.....	All.
1885.....	127.....	All.
1885.....	141.....	All.
1885.....	153.....	All.
1885.....	171.....	All.
1885.....	305.....	All.
1885.....	369.....	All.
1885.....	422.....	All.
1885.....	423.....	All.
1885.....	489.....	All.
1885.....	498.....	All.
1885.....	535.....	All.
1885.....	540.....	All.
1885.....	549.....	All.
1886.....	65.....	All.
1886.....	182.....	All.
1886.....	271.....	All.
1886.....	321.....	All.
1886.....	322.....	All.
1886.....	403.....	All.
1886.....	415.....	All.
1886.....	509.....	All.
1886.....	551.....	All.
1886.....	579.....	All.
1886.....	586.....	All.
1886.....	592.....	All.
1886.....	601.....	All.
1886.....	605.....	All.
1886.....	634.....	All.
1886.....	642.....	All.
1887.....	450.....	All.
1887.....	486.....	All.
1887.....	536.....	All.
1887.....	570.....	All.
1887.....	616.....	All.
1887.....	622.....	All.
1887.....	724.....	All.

GENERAL CORPORATION LAW.

SCHEDULE OF LAWS REPEALED - (Concluded).

Laws of	Chapter	SECTIONS.
1888.....	189.....	All.
1888.....	306.....	All.
1888.....	313.....	All.
1888.....	359.....	All.
1888.....	394.....	All.
1888.....	447.....	All.
1888.....	462.....	All.
1888.....	513.....	All.
1888.....	514.....	All.
1888.....	549.....	All.
1888.....	560.....	All.
1889.....	57.....	All.
1889.....	76.....	All.
1889.....	78.....	All.
1889.....	236.....	All.
1889.....	242.....	All.
1889.....	281.....	All.
1889.....	332.....	All.
1889.....	369.....	All.
1889.....	428.....	All.
1889.....	519.....	All.
1889.....	524.....	All.
1889.....	531.....	All.
1889.....	532.....	All.
1889.....	564.....	All.
1890.....	23.....	All.
1890.....	98.....	All.
1890.....	119.....	All.
1890.....	193.....	All.
1890.....	292.....	All.
1890.....	416.....	All.
1890.....	421.....	All.
1890.....	483.....	All.
1890.....	497.....	All.
1890.....	505.....	All.
1890.....	508.....	All.
1890.....	543.....	All.
1891.....	57.....	All.
1891.....	287.....	All.
1892.....	2.....	All.

GENERAL CORPORATION LAW.

No. 1.

Section 7. Amended or supplemental certificate.

STATE OF NEW YORK, } ss.
County of———.

We, the undersigned, directors of ———, under the authority given by section 7 of the general corporation law of 1892, do hereby certify that, in the original (or amended or supplemental) certificate of incorporation, a matter, not authorized by law to be therein stated, has been inserted (or a matter required to be stated therein has been omitted), to wit: (here particularly state the defect,; ————)

To conform to the requirements of the law, we do make and file this amended certificate, and for such purpose certify and allege as follows:

(Here set forth all the allegations of the former certificate, supplying or omitting the aforesaid recital.)

In witness whereof, we, the said directors, have executed this certificate in duplicate, and hereto set our hands this — day of ———, 18—.

(Signatures of Directors.)

STATE OF NEW YORK, } ss.
County of———.

On this — day of ———, 18—, before me personally came ———, to me known to be the persons described in, and who executed, the foregoing amended certificate, and they severally acknowledged that they executed the same for the intents and purposes therein mentioned.

_____,
Justice of the peace.

No. 2.

Section 21. Proxy to Vote.

KNOW ALL MEN BY THESE PRESENTS, that I, Thomas Doe, do hereby constitute and appoint John Jones to be my lawful attorney, substitute and proxy, for me and in my name, to vote on all the stock held by me

GENERAL CORPORATION LAW—FORMS.

in the Jones Manufacturing Company, at any election for directors, as fully as I might or could do, were I personally present at such election.

And I hereby revoke any proxy or proxies heretofore given by me to any person or persons whomsoever.

In witness whereof, I have hereunto set my hand and seal this—
day of ———, 18—.

(Signed)

THOMAS DOE. [L. S.]

In presence of

RICHARD ROE.

STATE OF NEW YORK, }
County of ———, } ss.

Thomas Doe, being duly sworn, says that the stock (or bonds) upon which the foregoing power or proxy to vote is given are in his possession and under his control; that he has not ceased to retain title thereto, and that the foregoing power or proxy to vote has not been issued for any sum of money or anything of value.

(Jurat.)

Forms of oath to be administered by inspectors to stockholders and proxies are found in section 22 of the General Corporation law.

No. 3.

Section 32. Form of Consent.

STATE OF NEW YORK, }
County of ———, } ss.

We, the stockholders of the ———, a domestic corporation, owning two-thirds in amount of its capital stock, do, pursuant to the provisions of section 32 of the general Corporation Law of 1892, hereby certify that we severally consent to the extension of the term of the corporate existence of said company for a further period of ——— years beyond the time fixed, by the certificate of incorporation, for the termination of its corporate existence.

In witness whereof, we have hereto severally set our hands and annexed thereto the respective number of shares of stock owned by us, in said company, this — day of ———, 18—.

(Names and stock)

(For instance).

——— 50 Shares.
——— 100 "
——— 25 "

GENERAL CORPORATION LAW—FORMS.

(Acknowledgment clause as in No. 1.)

STATE OF NEW YORK, }
County of _____, } ss.

_____, being duly sworn, says that he is the _____ of the corporation named in the foregoing consent and the custodian of its stock-book ; that the persons, whose names are subscribed to such consent, are the owners, upon the books of said corporation, of the number of shares of stock therein set opposite to their respective signatures to the above consent, and that such stock constitute at least two-thirds in amount of the capital stock of said corporation.

(Jurat.)

_____.

The above form can be readily adapted in case of other than stock corporations.

INDEX.

A.

SECTION.

Acquisition of additional real property	13
Acquisition of property in other states.....	14
Acquisition of real property by foreign corporation.....	17, 18
Actions against foreign corporations.....	16
Actions by foreign corporations.....	15
Actions collusively brought, stay in	28
Actions pending, not affected.....	35
Additional real property, court may permit it to be held	13
Agents, right to appoint, etc., generally.....	11
Agricultural corporations, classified	2
Alteration of seal, right to.....	11
Amended certificate of incorporation, contents and effect of.....	7
Amended certificate of incorporation as evidence.....	9
Amended certificate of incorporation, filing of.....	5

B.

Banking corporation, a monied corporation.....	3
Banking powers, when prohibited.....	19
Baptist historical society, revived.....	37
Benevolent orders, classified as membership corporations.....	2
Bequest, right to take by.....	11
Board of supervisors, certain approvals by	32
Board of trade corporations, classified.....	2
Bookkeeper, not to be proxy	21
Books, to be produced at meetings	20
Business corporation, classified.....	2
"Business of a corporation," defined.....	3
By-laws, directors to be controlled by.....	11
By-laws, members may adopt.....	29
By-laws, right to make, generally.....	11
By-laws, what may be prescribed by.....	11
By-laws, when directors may make.....	29

C.

Capital stock, divided into shares, makes stock corporation.....	3
Cemetery corporation, classified.....	2
Certificate authorizing foreign corporation to do business.....	15, 16
Certificate of incorporation, as evidence	9
Certificate of incorporation, by whom executed.....	4
Certificate of incorporation, defects, etc., in, how cured.....	7
"Certificate of incorporation," defined.....	3
Certificate of incorporation, fees, etc., to be paid before filing of.....	5
Certificate of incorporation, filing, etc., of.....	5

INDEX.

	SECTION.
Certificate of incorporation, loss of, how supplied.....	8
Certificate of incorporation, may provide as to elections.....	20
Challenges at election.....	22
Charter, special provisions of, abrogated on renewal.....	82
City is municipal corporation.....	8
Classification of corporations.....	2
Clerk, not to be proxy.....	21
Collusion, actions by, stay in.....	28
Conflicting corporate laws.....	33
Construction clause.....	36
Co-operative corporation, classified.....	2
Corporate affairs, directors to manage.....	29
Corporate existence, extension of.....	32
Corporate existence expired, renewal of.....	32
"Corporate law or laws," meaning of.....	3
Corporate laws, conflict of.....	33
Corporate powers not to be exercised until taxes and fees paid.....	5
Corporate powers, forfeiture for non-user.....	31
Corporate powers, limit of fixed.....	10
Corporate powers, only, to be exercised.....	10
Corporation, officers of, by-laws to regulate.....	11
Corporation, extension of duration of.....	32
Corporation, forfeiture for non-user.....	31
Corporation, foreign, authority to do business.....	15,
Corporation, foreign, not to do business without certificate.....	15
Corporation, general powers of.....	11
Corporation heretofore organized, may adopt cumulative voting.....	20
Corporation, non-stock, limit of property of.....	12
Corporations, classification of.....	2
Corporations, use of same name by, prohibited.....	6
County, is municipal corporation.....	3
County clerk, certificates of incorporation when to be filed with.....	5
Cumulative voting, may be allowed.....	20

D.

Debts, to be paid on dissolution.....	30
Defects in certificate of corporation, how cured.....	7
Destroyed certificate of incorporation, how supplied.....	8
Devise, right to take by.....	11
Definitions.....	2
Directors, actions by default of, stay in.....	28
Directors as trustees on dissolution.....	30
Directors, election of, etc.....	20
Directors, failure to elect, effect of.....	23
"Directors," includes what.....	3
Directors, majority of, power of.....	29
Directors, quorum of.....	29
Directors, residence of.....	29
Directors, special election of.....	24,
Directors, to be controlled by by-laws.....	11
Directors, to hold over.....	23
Directors to manage corporate affairs.....	29

INDEX.

	SECTION.
Dissolution, directors as trustees on.....	30
Dissolution, powers of trustees on.....	30
Distribution on dissolution to be made.....	30
"Domestic corporation," defined.....	8
Duration of corporation, extension of.....	32
Duration of proxy.....	21

E.

Effect of failure to elect directors.....	23
Election, challenges at.....	22
Election, powers of supreme court respecting.....	27
Elections, provisions of certificate of incorporation as to.....	20
Election, publication of by-laws governing.....	11
Election, qualification of voter at.....	20
Election, right to vote at, how determined.....	20
Election, special, notice of.....	24
Election, special, of directors.....	24, 25
Evidence, certificate of incorporation, use as.....	9
Expiration of corporation, renewal after.....	32
Extension of corporate existence.....	32
Extent of corporate power defined.....	10

F.

Failure to elect directors, effect of.....	23
Fees for incorporation, to be paid before certificate filed, etc.....	5
Filing certificate of incorporation.....	5
Fire, monument corporations, classified.....	2
Foreign corporation, acquisition of real property by.....	17, 18
"Foreign corporation," defined.....	3
Foreign corporation, may convey real property in the state.....	17, 18
Foreign corporation, not to do business without certificate.....	15
Foreign corporation, pre-requisites to doing business in the state.....	15, 16
Foreign corporation, proof by, before doing business.....	16
Foreign corporation, purchases by at judicial sales.....	18
Forfeiture for non-user.....	31
Form of proxy.....	21

G.

General powers, what included in.....	11
General reference to certain corporations, what it includes.....	2
Gift, right to take by.....	11
Grant of general powers, what it includes.....	11
Grant, right to take by.....	11

H.

Horticultural corporation, classified.....	2
--	---

I.

Incorporators, qualifications of.....	1
Informalities in certificate of incorporation, how cured.....	7
Inspectors, to administer oaths.....	22
Insurance corporation, a monied corporation.....	3

J.

Judicial sales, purchases by foreign corporation at.....	18
--	----

INDEX.

	L.	SECTION.
Laws, conflicting.....		83
Laws repealed and effect of.....	84,	35
Law revived.....		37
Library corporation, classified.....		2
Limit of corporate powers fixed.....		10
Limit of property of non-stock corporation.....		12
Limit of proxy.....		21
Limit within which business to commence.....		81
Lost certificate of incorporation, how supplied.....		8

M.

Majority of directors, powers of.....		29
Management, regulated by by-laws.....		11
"Member of corporation," includes what.....		8
Members, may vote by proxy.....		21
Members, powers of, at special elections.....		25
Members, when may apply for stay.....		28
Membership corporation, classified.....		2
Mistake in time of paying bonds, provided for.....		32
Mixed corporation, classified.....		2
Mixed corporation, defined.....		3
Mode of calling special election of directors.....	24,	25
Mode of conducting special election of directors.....	24,	25
Monied corporation, classified.....		2
Monument corporations, classified.....		2
Municipal corporation, classified.....		2
Municipal corporations, exceptions relative to.....		11
Municipal corporations, what are, defined.....		8

N.

Name of old corporation, use of, when allowed.....		6
Names of corporations, use of same by, prohibited.....		6
New election, supreme court may order.....		27
Non-stock corporation, classified.....		2
Non-stock corporation, filing certificate of.....		5
Non-stock corporation, limit of property of.....		12
Non-user, forfeiture for.....		81
Notice of special elections.....		24

O.

Oath administered at elections, to be filed.....		22
Oath, when challenged at election.....		22
"Office of corporation," defined.....		8
"Office of corporation," where located.....		8
Office of foreign corporation.....		16
Officer, not to be proxy.....		21
Officers, right to appoint, etc., generally.....		11

P.

Pending actions, not affected.....		35
Perpetual succession, right of.....		11
Personal liability of trustees on dissolution.....		30
Pledgor of stock, may vote it.....		20

INDEX.

	SECTION.
Powers of supreme court, respecting elections.....	27
Powers of trustees on dissolution.....	30
Powers, what included in general grant.....	11
Process against foreign corporation, person designated to receive service.....	16
Prohibition of banking powers.....	19
Proof by foreign corporation, for leave to do business.....	16
Property in other states, right to acquire.....	14
Property, right to hold, etc.....	11
Proxies.....	20, 21
Proxy, duration of.....	21
Proxy, form of.....	21
Proxy is revocable.....	21
Proxy, oath to.....	22
Proxy, qualifications of.....	21
Proxy, when corporation may prescribe limits of.....	21
Publication of by-laws.....	11
Purchase, right to take by.....	11

Q.

Qualifications of incorporators.....	4
Qualifications of voters.....	20
Qualifications of voters at special elections.....	26
Quorum, at special elections.....	26
Quorum, by-laws to determine.....	11
Quorum of directors.....	29

R.

Railroad corporation classified.....	2
Real property, acquisition of by foreign corporation.....	17, 18
Recording certificate of incorporation.....	5
Regulation of corporate affairs, by by-laws.....	11
Religious corporation, classified.....	2
Repeal of laws and effect of.....	34, 35
Revival of corporate existence expired.....	32
Revocation of authority of foreign corporation.....	16
Right to vote, how determined.....	20

S.

Sale of votes or proxies forbidden.....	20
Saving clause.....	35
School district, is municipal corporation.....	3
Seal, right to have.....	11
Secretary of State, certificates of incorporation when to be filed with.....	5
Secretary of State to issue authority for foreign corporation to do business.....	15, 16
Service upon foreign corporation, person to be named by.....	16
Shares, corporation capital divided into, is a stock corporation.....	3
Short title of this act.....	1
Soldiers' monument corporations classified.....	2
Special charter, conflict with present law.....	33
Special charter, provisions of, abrogated on renewals.....	32
Special election of directors.....	24, 25
Special election, notice of.....	24
Special elections, powers of members at.....	25

INDEX.

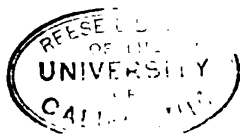
	SECTION.
Special election, qualification of voters at.	26
Special election, result how certified.	26
Statement by voters at special elections.	26
Statutory powers, only, to be exercised.	10
Stay of proceedings in actions collusively brought.	28
Stock, amount of at meetings, by-laws to fix.	11
Stock corporation, classified.	2
Stock corporation, defined.	3
Stockholders, consent by to extension of corporate existence.	32
Stock, pledgor of, may vote it.	20
Stock, transfer of, by-laws to regulate.	11
Succession, right of	11
Suits, by trustees on dissolution	30
Summary hearing of election issues	27
Superintendent of Banks, certain approvals by.	32
Superintendent of Insurance, certain approvals by.	32
Supplemental certificates of incorporation, contents and effect of.	7
Supplemental certificate of incorporation, filing of.	5
Supreme court, may amend certificate of incorporation	7
Supreme court, may permit additional property to be held.	13
Supreme court, power of, respecting elections.	26

T.

Taxes for incorporation to be paid before certificate filed, etc.	5
Teller, not to be proxy.	21
Term of directors holding office.	23
Term for which corporate existence may be extended.	32
Terms used herein, defined and applied.	3
Territorial division, when is a municipal corporation.	3
Time qualification of stock or bondholder to vote.	20
Town, is municipal corporation.	3
Transfer of stock, by-laws to regulate.	11
Transportation corporation, classified.	2
Transportation corporation, other than railroad, classified.	2
Trustees, directors as, on dissolution.	30
"Trustees," included under directors.	3
Trustees on dissolution, personal liability of.	30
Trustees, on dissolution, powers of.	30

V.

Value of corporate property, how determined.	12, 13
Village, is municipal corporation.	3
Void claim, action on, stay in.	28
Voters at special elections, qualifications of.	26
Voters, qualifications of.	20
Votes, number regulated.	20
Votes or proxies, sale of forbidden.	20



CHAP. 678.

AN ACT in relation to the sovereignty, boundaries, survey, great seal and arms of the state, constituting chapter two of the general laws.

APPROVED by the Governor May 18, 1892. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

CHAPTER II OF THE GENERAL LAWS.

THE STATE LAW.

- ARTICLE I. The state boundaries (§§ 1-11).
II. Cessions to the United States (§§ 20-37).
III. The arms and great seal of the state (§§ 40-46).

ARTICLE I.

THE STATE BOUNDARIES.

- SECTION 1. Short title.
2. The Connecticut boundary line.
 3. The Massachusetts boundary line.
 4. The Vermont boundary line.
 5. The Canada boundary line.
 6. The Pennsylvania boundary line.
 7. The New Jersey boundary line.
 8. Preservation of monuments.
 9. Restoration of monuments.
 10. Saving clause.
 11. Defense of state sovereignty and jurisdiction.

SECTION 1. Short title.—This chapter shall be known as the state law.

§ 2. The Connecticut boundary line.—The boundary line between the states of New York and Connecticut is as follows:

Beginning at a point in the east boundary line of Connecticut on a line running northwesterly between points marked 3 and 2, in the channel north of Fisher's island, at the east end of Long Island sound, as shown on the United States coast survey chart of Fisher's Island sound, and running northwesterly to point marked No. 2; thence following the west $\frac{1}{4}$ south sailing course westerly to point marked No. 1, about 1,000 feet northerly from the Hammock or North Dumpling lighthouse; thence running southwesterly to a point four statute miles true south of New London lighthouse; thence in a straight line (the arc of a great circle) southwesterly to a point $3\frac{1}{4}$ statute miles true southeast from point marked No. 0 in the center of the channel, about 600 feet south of the extreme rocks of Byram point, formerly called Lyon's point; thence $3\frac{1}{4}$ statute miles true northwest to the said point marked No. 0; thence following up the center of Byram river on courses marked by bolts set in rocks on the banks of the river, to the great stone with bolt fixed in it, at the ancient wading place on the east bank of Byram river, and which has always been known as a point in the state line; thence N. $24^{\circ} 19' W.$ 173.07 chains to the monument point in highway; thence N. $24^{\circ} 21' W.$ 224.78 chains to point near old Clapp House; thence N. $23^{\circ} 38' W.$ 172.93 chains to a stone marked G. R. in the highway at Duke's trees; thence N. $66^{\circ} 25' E.$ 398.40 chains to the fifth mile monument; thence N. $66^{\circ} 45' E.$ 319.12 chains to the ninth mile monument; thence N. $66^{\circ} 56' E.$ 241.93

chains to the point of original twelfth mile monument; thence N. $65^{\circ} 44'$ E. 90.87 chains to the southwest corner of oblong, where survey of 1725 terminated; thence N. $67^{\circ} 45'$ E. 138.76 chains to Wilton angle monument at the southeast corner of oblong, as set off by commissioners of 1731; thence N. $24^{\circ} 14'$ W. 167.28 chains to the two mile monument; thence N. $24^{\circ} 48'$ W. 157.63 chains to the 4th mile monument, on east line of the oblong; thence N. $25^{\circ} 8'$ W. 213.39 chains to the Ridgefield angle monument; thence N. $14^{\circ} 10'$ E. 109.41 chains to the two mile monument; thence N. $11^{\circ} 44'$ E. 158.99 chains to the 4th mile monument 20.5 rods east from Mopo creek; thence N. $12^{\circ} 10'$ E. 164.42 chains to the 6th mile monument; thence N. $10^{\circ} 19'$ E. 159.28 chains to the 8th mile monument; thence N. $12^{\circ} 24'$ E. 155.71 chains to the tenth mile monument; thence N. $10^{\circ} 51'$ E. 313.41 chains to the fourteenth mile monument; thence N. $10^{\circ} 11'$ E. 161.07 chains to the sixteenth mile monument; thence N. $12^{\circ} 19'$ E. 157.15 chains to the eighteenth mile monument; thence N. $11^{\circ} 49'$ E. 159.09 chains to the twentieth mile monument; thence N. $12^{\circ} 18'$ E. 163.17 chains to the twenty-second mile monument; thence N. $11^{\circ} 39'$ E. 320.11 chains to the twenty-sixth mile monument; thence N. $10^{\circ} 56'$ E. 160 chains to the twenty-eighth mile monument; thence N. $12^{\circ} 27'$ E. 161.32 chains to the thirtieth mile monument; thence N. $11^{\circ} 44'$ E. 243.37 chains to the thirty-third mile monument; thence N. $12^{\circ} 32'$ E. 158.96 chains to the thirty-fifth mile monument; thence N. $12^{\circ} 21'$ E. 398.21 chains to the fortieth mile monument in Sharon valley, forty rods east from Ten Mile river; thence N. $13^{\circ} 16'$ E. 161.24 chains to the forty-second mile monument; thence N. $11^{\circ} 33'$ E. 160.99 chains to the forty-fourth mile monument, twelve rods east from Indian pond; thence N. $12^{\circ} 34'$ E. 239.57 chains to the forty-seventh mile monument; thence N. $11^{\circ} 20'$ E. 464.69 chains to the monument in the Massachusetts line, erected in 1731 as the northeast corner of equivalent or oblong in that year ceded to New York by Connecticut and standing in a valley of the Taghanic mountains 160 rods east from the southwest corner of Massachusetts, and 122 rods eastward from a bolt placed in a rock on the top of the most westerly of said mountains where the southerly Massachusetts line crosses it.

The said metes and bounds are those defined by monuments erected by commissioners appointed by the legislature of the state of New York and completed in the year 1860, as shown by the report of such commissioners dated February 8, 1861, and adopted by agree-

ment between commissioners of New York and Connecticut, made December 8, 1879, and consented to by act of congress approved February 26, 1881, and which took effect by the terms of the act of the legislature of this state, ratifying and confirming the same, on July 6, 1880, the date of the filing in the office of the secretary of state, of the notice of the adoption of such agreement by the state of Connecticut. The ratification and confirmation by this state, of such agreement, is continued in force.

The following is a copy of such agreement :

"Memorandum of agreement by and between the subscribers, commissioners of the states of New York and Connecticut, respectively, to settle the question of the boundaries between said states, being thereunto authorized by the resolutions of said states respectively passed by them, is hereunto annexed. That is to say, we, Allen C. Beach, secretary of state; Augustus Schoonmaker, Jr., attorney-general, and Horatio Seymour, Jr., state engineer and surveyor, commissioners of the state of New York, and we, Origen S. Seymour, La Fayette S. Foster, and William T. Minor, commissioners of the state of Connecticut, have agreed and do hereby agree, to fix, determine and establish the boundaries between our respective states, subject to the approval and ratification of the legislatures of our respective states in the following manner: We agree that the boundary on the land constituting the western boundary of Connecticut and the eastern boundary of the state of New York shall be and is as the same was defined by monuments erected by commissioners appointed by the legislature of the state of New York and completed in the year eighteen hundred and sixty. The said boundary line extending from Byram point, formerly called Lyon's point, on the south, to the line of the state of Massachusetts on the north. And we further agree that the boundary on the sound shall be and is as follows: Beginning at a point in the center of the channel about six hundred feet south of the extreme rocks of Byram point, marked No. 0, on appended United States coast survey chart; thence running in a true southeast course three and one-fourth statute miles; thence in a straight line (the arc of a great circle) northeasterly to a point four statute miles true south of New London light-house; thence northeasterly to a point marked number one on the annexed United States coast survey chart of Fisher's island sound, which point is on the longitude east three-quarters north sailing-course drawn on said map, and is about one thousand feet northerly from the Hammock or North Dumpling light-house; thence following said east three-fourths

north sailing-course as laid down on said map easterly to a point marked number two on said map; thence southeasterly toward point marked number three on said map, so far as said states are coterminous; provided, however, that nothing in the foregoing agreement contained shall be construed to affect existing titles to property corporeal or incorporeal, held under grants heretofore made by either of said states, nor to affect existing rights which said states, or either of them, or which the citizens of either of said states may have, by grant, letters-patent or prescription, of fishing in the waters of said sound, whether for shell or floating fish, irrespective of the boundary line hereby established, it not being the purpose of this agreement to define, limit or interfere with any such right, rights or privileges, whatever the same may be.

In witness whereof we have hereunto set our hands to this instrument and to a duplicate thereof, December eight, eighteen hundred and seventy-nine.

ALLEN C. BEACH,

" Secretary of State.

AUGUSTUS SCHOONMAKER, JR.,

Attorney-General.

HORATIO SEYMOUR, JR.,

State Engineer and Surveyor.

Commissioners of the State of New York.

ORIGEN S. SEYMOUR,

LAFAYETTE S. FOSTER,

WILLIAM T. MINOR,

Commissioners of the State of Connecticut."

§ 3. **Massachusetts boundary line.**—The boundary line between the states of New York and Massachusetts is as follows:

Commencing at the said monument erected in 1731 as the northeast corner of equivalent or oblong in that year ceded to New York by Connecticut, and standing in a valley of the Taghanic mountains 160 rods east from the southeast corner of Massachusetts, and 122 rods eastward from a bolt placed in a rock on the top of the most westerly of said mountains, where the southerly Massachusetts line crosses it; thence along the southern bounds of Massachusetts N. 81° 44' 56" W. 40 chains, to a marble post marked on the south and west sides "N. Y." and on the east side "Ms." and on the north side "1853," which stone marks the southeast corner of Boston corner as established by Commissioners J. Z. Goodrich of Massachu.

setts, and R. G. Dorr of New York, on report of survey by J. T. Hogeboom, dated December 20, 1853; thence by true meridian N. $12^{\circ} 57' 16''$ W. 207.49 chains to a marble post marked on the east side "Ma," on the west side "N. Y." and on the south side "1853," thence along the line as the same was laid out by the United States commissioners in 1787, N. $15^{\circ} 12' 9''$ E. 47 miles 73.81 chains to a marble post marking the junction of the New York and Massachusetts line with the southern line of Vermont; thereby including within the state of New York that portion of the former territory of Massachusetts known as the district of Boston corner, situate formerly in the southwesterly corner of Massachusetts, and westerly of the southwest line of the town of Mount Washington, in the county of Berkshire, and ceded to the state of New York upon certain conditions by an act of the legislature of Massachusetts passed in* May 14, 1853, entitled "An act relating to the separation of the district of Boston corner from this commonwealth, and the cession of the same to the state of New York."

The acceptance by this state of sovereignty and jurisdiction of such ceded territory which took effect January 3, 1855, the date of the approval of the act of congress consenting to such cession, is continued in force, subject to the retention by the state of Massachusetts of jurisdiction in any cause which arose or was pending before the date of the issuing of the proclamation provided in the third section of such act of the legislature of Massachusetts.

§ 4. Vermont boundary line.— The boundary line between the states of New York and Vermont is as follows:

Commencing at the said marble post marking the junction of the New York and Massachusetts line with the southern line of Vermont; thence along the southern boundary of Vermont as the same was laid out by joint commission of the two states in 1813, N. $82^{\circ} 20'$ W. 50 chains to a rough stone supported by a heap of stones on the brow of a high hill descending to the west; thence N. 5° W. 3 miles 72 chains; thence N. 35° E. 30 chains to a hemlock tree on the westerly bank of the Hoosick river; thence N. $1^{\circ} 20'$ W. 6 chains to a hewn marble stone; thence N. $27^{\circ} 20'$ E. 30 chains through the bed of said river to a large roundish rock on the northeasterly bank thereof; thence N. 25° W. 16.70 chains; thence N. 9° W. 18.60 chains; thence N. 11° E. 77 chains; thence N. 46° E. 6 chains; thence S. 66° E. 26.25 chains; thence N. 9° E. 27.50 chains to a blue slate stone marking the southwest corner of Bennington;

* So in the original.

thence from the Bennington corner N. 7° 30' E. 6 miles 52 chains to the northwest corner of the town of Bennington; thence N. 8° 20' E. 6 miles 44.50 chains to the northwest corner of the town of Shaftsbury; thence N. 9° E. 13 miles 2.50 chains to the northwest corner of the town of Sandgate and the southwest corner of the town of Rupert; thence N. 8° E. 1 mile 41 chains; thence N. 10° 15' E. 55.50 chains; thence N. 9° 15' E. 19.70 chains; thence N. 8° 45' E. 4 miles 18.40 chains to the northeast corner of the town of Rupert; thence N. 8° E. 6 miles 31.15 chains to the northwest corner of the town of Pawlet; thence N. 70° 30' E. 6 miles 6.25 chains to the northwest corner of the town of Wells; thence N. 7° E. 1 mile 12.50 chains to a bunch of hornbeam saplings on the south bank of the Poultney river; according to the report made October 25, 1814, of commissioners appointed by the states of New York and Vermont; thence along the middle of the deepest channel of said river to East bay; thence along the middle of the deepest channel of East bay and the waters thereof to where the same communicates with Lake Champlain; thence along the middle of the deepest channel of Lake Champlain to the eastward of the islands called the Four Brothers and westward of the islands called Grand isle and Long isle or the Two Heroes, and to the westward of the Isle La Mott, to the parallel of the forty-fifth degree north latitude, as run by Valentine and Collins, 1771-1774; according to report dated October 7, 1791, of commissioners appointed by chapter eighteen of the laws passed at the thirteenth session of the legislature of this state in 1790; thereby including within the state of New York, all that portion of the former town of Fair Haven, formerly in the county of Rutland and state of Vermont, lying westerly from the middle of the deepest channel of Poultney river as it now runs, and between the middle of the deepest channel of such river and the west line of the state of Vermont, as established on March 19, 1879, as the same is described in an act of the legislature of Vermont entitled "An act annexing that portion of the town of Fair Haven, lying west of Poultney river, to the state of New York," and approved by the governor of Vermont November 27, 1876. The acceptance by this state of sovereignty and jurisdiction of such ceded territory which took effect April 7, 1880, the date of the approval of the act of congress consenting to such cession, is continued in force.

§ 5. **The Canada boundary line.**—The boundary line between the state of New York and Canada is as follows:

Commencing at the intersection of the parallel of the forty-fifth degree of north latitude with the middle of the deepest channel of the Richelieu river and running thence westerly along said parallel of forty-five degrees north latitude as originally run by Valentine and Collins, 1771-1774, to a point on the south shore of the St. Lawrence river (but shown by the United States survey of boundary line in 1845, under treaty of Washington, 1842, on sheet maps XXVI to XXX to vary from true parallel of forty-five degrees, as follows: monument 645, on bank of Richelieu river, is .822 miles north of parallel of 45° and .02 miles west from river; thence westerly 14.68 miles to monument 673, at .336 miles north; thence westerly 6.56 miles to monument 685, at .353 miles north; thence westerly 9.20 miles to monument 703, at .004 miles south; thence westerly 7.43 miles to monument 717, at .429 miles south; thence westerly 10.02 miles to monument 737, at .475 miles south; thence westerly 6.34 miles to monument 749, at .140 miles south; thence westerly 5.88 miles to monument 762, on true parallel of 45° ; thence westerly 4.20 miles to monument 774, at .030 miles north on bank of St. Lawrence river S. $74^{\circ} 45'$ W. 1840 yards distant from the stone church in the Indian village of St. Regis, this line being recognized as the boundary line by article one of said treaty of Washington). Thence beginning at aforesaid point on the south shore of the Saint Lawrence river, marked by monument 774, under the treaty of Washington, 1842, and in 1817 by a stone monument erected by Andrew Ellicott (the location of which point is described above), and running north $35^{\circ} 45'$ west into the river, on a line ^a right angles with the southern shore, to a point 100 yards south of the opposite island, called Cornwall island; thence turning westerly and passing around the southern and western side of said island keeping 100 yards distant therefrom, and following the curvatures of its shores, to a point opposite to the northwest corner or angle of said island; thence to and along the middle of the main river until it approaches the eastern extremity of Barnhart's island; thence northerly along the channel which divides the last mentioned island from the Canada shore, keeping 100 yards distant from the island, until it approaches Sheik's island; thence along the middle of the strait which divides Barnhart's and Sheik's islands to the channel called the Long Sault, which separates the two last mentioned islands from the lower Long Sault island; thence westerly (crossing the center of the last mentioned channel) until it approaches within

* So in the original.

100 yards of the north shore of the Lower Sault island; thence up the north branch of the river keeping to the north of and near the Lower Sault island, and also north of and near the Upper Sault, sometimes called Baxter's island, and south of the two small islands marked on the map A and B, to the western extremity of the Upper Sault or Baxter's island; thence passing between the two islands called the Cats, to the middle of the river above; thence along the middle of the river, keeping to the north of the small islands marked C and D, and north also of Chrystler's island, and of the small island next above it, marked E, until it approaches the northeast angle of Goose Neck island; thence along the passage which divides the last mentioned island from the Canada shore, keeping 100 yards from the island to the upper end of the same; thence south of and near the two small islands called the Nut islands; thence north of and near the island marked F, and also of the island called Dry or Smuggler's island; thence passing between the islands marked G and H to the north of the island called Isle au Rapid Platt; thence along the north side of the last mentioned island, keeping 100 yards from the shore, to the upper end thereof; thence along the middle of the river, keeping to the south of and near the islands called Coussin (or Tussin) and Presque isle; thence up the river, keeping north of and near the several Gallop Isles numbered on the map 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, and also of Tick, Tibbits, and Chimney islands, and south of and near the Gallop isles numbered 11, 12 and 13, and also of Duck, Drummond, and Sheep islands; thence along the middle of the river, passing north of island No. 14, south of 15 and 16, north of 17, south of 18, 19, 20, 21, 22, 23, 24, 25 and 28, and north of 26 and 27; thence along the middle of the river, north of Gull island and of the islands Nos. 29, 32, 33, 34, 35, Bluff island, and Nos. 39, 44 and 45, and to the south of Nos. 30, 31, 36, Grenadier island, and Nos. 27, 28, 40, 41, 42, 43, 46, 47 and 48 until it approaches the east end of Wells island, thence to the north of Wells island, and along the strait which divides it from Rowe's island, keeping to the north of the small islands Nos. 51, 52, 54, 58, 59 and 61, and to the south of the small islands numbered and marked 49, 50, 53, 55, 57, 60, and X, until it approaches the northeast point of Grindstone island; thence to the north of Grindstone island and keeping to the north also of the small islands Nos. 63, 65, 67, 68, 70, 72, 73, 74, 75 76, 77 and 78, and to the south of Nos. 62, 64, 66, 69 and 71, until it approaches the southern point of Hickory island; thence passing to the south of Hickory island and of the two small islands

lying near its southern extremity numbered 79 and 80; thence to the south of Grand or Long island, keeping near its southern shore, and passing to the north of Carlton island, until it arrives opposite to the southwestern point, of said Grand island, in Lake Ontario; thence, passing to the north of Grenadier, Fox, Stony, and the Gallop islands, in Lake Ontario, and to the south of and near the islands called the Ducks, to the middle of the said lake, thence westerly along the middle of said lake to a point opposite the mouth of the Niagara river, thence to and up the middle of the said river to the Great Falls; thence up the Falls through the point of the Horse Shoe, keeping to the west of Irish or Goat island, and of the group of small islands at its head, and following the bends of the river so as to enter the strait between Navy and Grand islands; thence along the middle of said strait to the head of Navy island; thence to the west and south of and near to Grand and Beaver islands, and to the west of Strawberry, Squaw, and Bird islands to Lake Erie; thence southerly and westerly along the middle of Lake Erie in a direction to enter the passage immediately south of Middle island, being one of the eastern most of the group of islands lying in the western part of said lake. (According to the decision of the commissioners under the sixth article of the treaty of Ghent, 1814, done at Utica, state of New York, June 18, 1822) to intersection with meridian line of cession, drawn through the most westerly bent or inclination of Lake Ontario, under deed of cession to the United States, executed March 1, 1781, under chapter thirty-eight of the third session of the legislature of this state in 1780, which meridian line was surveyed and marked with monuments by Andrew Ellicott in 1790, as duly appointed under resolution of Congress, August 19, 1789, and resurveyed in 1881 to 1885, and final report made December 1, 1885, by H. W. Clark, civil engineer and surveyor, on the part of the state of New York.

§ 6. The Pennsylvania boundary line.—The boundary line between the states of New York and Pennsylvania is as follows:

Commencing at said intersection of said meridian line of cession, and running thence south to the shore of Lake Erie at initial monument set by A. Ellicott in 1790 as above; thence true south 440 feet to a large monument of Quincy granite, set in 1869, in latitude $42^{\circ} 16' 5.39''$, and longitude $79^{\circ} 45' 45.26''$, as deduced by the United States lake survey, marked 1869, latitude $42^{\circ} 15' 57.9''$, longitude $79^{\circ} 45' 54.4''$, by commissioners duly authorized on the part of the states of New York and Pennsylvania as stated in reports of regents

boundary commission in 1886 ; thence south on said meridian line 13.895 miles to Fourteen Mile point ; thence south 4.647 miles at an angle of 4' west to a large terminal monument ; thence on the same line 100 feet to the southwest corner of New York marked by monument (in latitude $42^{\circ} 0' 1.42''$, as determined by state survey) set in 1787 by A. Hardenburgh and W. W. Morris, commissioners on the part of New York, and A. Ellicott and A. Porter, commissioners on part of Pennsylvania ; thence due east on parallel of latitude of 42° , as surveyed and marked by monuments by said commission, to the ninetieth mile stone erected in 1786 by James Clinton and Simeon De Witt, commissioners on the part of New York, and Andrew Ellicott, commissioner on the part of Pennsylvania, on the west side of the south branch of the Tioga river in latitude $42^{\circ} 0' 1.3''$ as deduced by the state surveyor in 1879 ; thence due east on line established and marked by the last mentioned commission to a point in the center of Delaware river, such line passing through a monument set in the year 1884 by H. W. Clarke, surveyor, on the part of the state of New York, and C. M. Gere, surveyor, on the part of the state of Pennsylvania, and located six hundred feet west of the center of said river (all of the above line passing through monuments placed between the years 1881 and 1885 by said H. W. Clarke and C. M. Gere, of which a schedule is given in their report to the commission appointed by virtue of the provisions of chapter 340 of the laws of 1880, and dated December 1, 1885, showing angular deflections at each mile stone, with distances between each, summarized as follows : Southwest state corner to Chautauqua county corner 36.090 miles ; to Cattaraugus county corner 38.743 miles ; to Allegany county corner 28.769 miles ; to Steuben county corner (mile post eighty-two) 40.411 miles ; to Tioga county corner, on the left bank of the Chemung river, 21.066 miles ; to Broome county corner 23.387 miles ; to the center of the Delaware river 38.396 miles ; thence down the center of the Delaware river about eighty-five miles to its junction with the Neversink river ; each of the states of New York and Pennsylvania having concurrent jurisdiction within and upon the waters of that portion of the main channel of the Delaware river between the lines of low water at either bank thereof ; then S. 51° E. on prolongation of boundary line between New York and New Jersey, to " tri-state monument," set in 1882 by joint commission, over bolt in bare lime-stone rock near the confluence of the Neversink and Delaware rivers as settled in 1769 by commission appointed by king of Great Britain, and

marked by a crow foot cut into its upper face, in latitude $41^{\circ} 21' 22.63''$, and longitude $74^{\circ} 41' 40.70''$ west as determined by the United States coast survey in 1874. The said metes and bounds are in accordance with and subject to the agreement between commissioners of the states of New York and Pennsylvania, which took effect August 19, 1890, the date of the approval of the act of congress consenting thereto. The ratification and confirmation by this state of such agreement is continued in force. The following is a copy of such agreement :

An agreement made the twenty-sixth day of March, in the year eighteen hundred and eighty-six, between Henry R. Pierson, Elias W. Leavenworth and Chauncey M. Depew, commissioners on the part of the state of New York, and Christopher M. Gere and Robert N. Torrey, commissioners on the part of the state of Pennsylvania.

WHEREAS, By the first section of chapter four hundred and twenty-four of the laws of the state of New York, for the year eighteen hundred and seventy-five, the regents of the university of the state of New York were authorized and directed to resume the work of "examination as to the true location of the monuments which mark the several boundaries of the state," as authorized by the resolution of the senate of April nineteenth, eighteen hundred and sixty-seven, and in connection with the authorities of Pennsylvania, to replace any monuments which may have become dilapidated or been removed on the boundary line of that state ; and,

WHEREAS, The said board of regents of the university did through a committee of said board, previously appointed for the purpose, under said senate resolution of eighteen hundred and sixty-seven, proceed to carry out the instructions contained in said chapter four hundred and twenty-four of the laws of eighteen hundred and seventy-five ; and,

WHEREAS, By chapter three hundred and forty of the laws of the said state of New York for the year eighteen hundred and eighty the said regents of the university were further authorized and empowered to designate and appoint three of their number as commissioners to meet such commissioners as may have been or may be appointed on the part of the state of Pennsylvania, and with such last-named commissioners as soon as may be, to proceed to ascertain and agree upon the location of the boundary line between said states, as originally established and marked with monuments, and in case any monuments are found dilapidated or removed from their original location, to replace them in a durable manner in their original posi-

tion, and to erect such additional monuments at such places on such lines as they may deem necessary for the proper designation of the boundary line between said states; and,

WHEREAS, The above-named Henry R. Pierson, Elias W. Leavenworth and Chauncey M. Depew were by resolution passed on the thirteenth day of July, eighteen hundred and eighty, duly designated and appointed by the said regents of the university of the state of New York as commissioners on the part of the state of New York for the purposes mentioned in said act; and,

WHEREAS, Also, by an act of the legislature of the state of Pennsylvania, entitled "An act in regard to the boundary monuments on the line between the state of Pennsylvania and New York, with an appropriation for expenses of the same," passed May eighth, eighteen hundred and seventy-six, the governor of the state of Pennsylvania was authorized and empowered 'to appoint three persons to be a commission to act in conjunction with a similar commission of the state of New York, to examine as to the true location of the monuments which mark the boundary line between this state and the state of New York, and in connection with said commission of the state of New York, to replace any monuments which may have been dilapidated or been removed on the boundary lines of said states'; and,

WHEREAS, The governor of the state of Pennsylvania, under authority of said act, did duly designate and appoint James Worrall, Christopher N. Gere and Robert N. Torry, to be a commission for the purposes of said act; and,

WHEREAS, James Worrall, the first-named member of said commission, died during the progress of the work on said boundary line; to wit, on April first, eighteen hundred and eighty-five, and the surviving members, to wit: Christopher M. Gere and Robert N. Torry, have continued the work of said commission on the part of the state of Pennsylvania, as authorized by the aforesaid act.

Now, THEREFORE, the said commissioners for and on behalf of their respective states, having duly performed the duties imposed upon them by the said acts, and having examined said boundary line, and replaced in a durable manner the monuments to mark the same in pursuance of the authority duly given as aforesaid, have agreed and do hereby agree as follows:

First. The channel of the Delaware river, from a line drawn across said channel, from a granite monument erected upon the eastern bank of said river in the year eighteen hundred and eighty-two, by the joint boundary commission of the states of New Jersey and New

York to mark the western extremity of the boundary line between said states of New Jersey and New York, in a westerly prolongation of said boundary line up and along said channel of said Delaware river as it winds and turns, for a distance of eighty-five miles or thereabouts, to a line drawn east across said river from a granite monument erected upon the west bank of said river in the year eighteen hundred and eighty-four, by H. W. Clarke and C. M. Gere, to mark the eastern extremity of the first line hereinafter described, shall continue to be a part of the boundary or partition line between the said two states; provided, however, that the limit of territory between the said two states shall be the center of the said main channel, and provided further, that each state shall enjoy and exercise a concurrent jurisdiction within and upon the water of said main channel between the lines of low water at either bank thereof, between the limits hereinbefore mentioned.

Second. The line extending from the Delaware river aforesaid, at a point upon said river fixed and marked with monuments (which have since disappeared), by David Rittenhouse and Samuel Holland, in the month of November, in the year seventeen hundred and seventy-four, west, as the same was surveyed and marked with monuments in the year seventeen hundred and eighty-six, as far as the ninetieth milestone, by James Clinton and Simeon De Witt, commissioners on the part of the state of New York, duly appointed for that purpose by the governor of said state, in pursuance of an act of the legislature of said state, entitled 'An act for running out and marking the jurisdiction line between this state and the commonwealth of Pennsylvania,' passed seventh March, seventeen hundred and eighty-five, and David Rittenhouse, Andrew Porter and Andrew Ellicott, commissioners on the part of the commonwealth of Pennsylvania, duly appointed for that purpose by the supreme executive council of said commonwealth in pursuance of an act of the general assembly of said commonwealth, entitled 'An act to authorize and enable the supreme executive council to appoint commissioners to join with the commissioners appointed, or to be appointed, on the part of the state of New York, to ascertain the northern boundary of this state from the river Delaware westward to the northwest corner of Pennsylvania,' passed thirty-first March, seventeen hundred and eighty-five, and from the said ninetieth milestone west, as the same was surveyed and marked with monuments and posts in seventeen hundred and eighty-seven by Abraham Hardenbergh and William W. Morris, commissioners on the part of the said state of New

York, duly appointed in the place of Simeon De Witt and James Clinton aforesaid, by the governor of said state in pursuance of the act aforesaid, and the act supplementary thereto, passed by the legislature of said state, twenty-first April, seventeen hundred and eighty-seven, and Andrew Ellicott and Andrew Porter aforesaid, commissioners on the part of the commonwealth of Pennsylvania, to the point where said line is intersected by the line of cession or meridian boundary hereinafter described, which said line so surveyed and marked in the years seventeen hundred and eighty-six and seventeen hundred and eighty-seven has since been acknowledged and recognized by the said two states as a part of the limit of their respective territory and jurisdiction, shall notwithstanding any want of conformity to the verbal description as written in the charter of the province of Pennsylvania, granted to William Penn in the year sixteen hundred and eighty-two, or as recited by the commissioners aforesaid, continue to be the boundary or partition line between the two said states, from the Delaware river aforesaid, to the said point of intersection with the said line of cession; provided that wherever upon said line the locations of any of the monuments, or posts, erected by the said commissioners in seventeen hundred and eighty-six and seventeen hundred and eighty-seven have been lost and can not otherwise be definitely fixed, then and in that case, and in every case where it is required to establish intervening points in said line, a straight line drawn between the nearest adjacent monuments whose localities are ascertained shall be understood to be, and shall be, the true boundary line.

Third. The line of cession, described as a meridian line, drawn from the forty-fifth degree of north latitude, south through the most westerly bent or inclination of Lake Ontario, in the deed of cession to the United States of certain territory claimed by the state of New York, lying west of said line, executed first March, seventeen hundred and eighty-one, by James Duane, William Floyd and Alexander McDougal, delegates in congress of said United States from the said state of New York, in pursuance of an act of the legislature of said state, entitled 'An act to facilitate the completion of the articles of confederation and perpetual union among the United States of America,' passed February nineteenth, seventeen hundred and eighty, which said territory was afterward conveyed by the United States aforesaid to, and became a part of the territory and jurisdiction of the said commonwealth of Pennsylvania, as the said line was surveyed and marked with posts and monuments of stone

in the year seventeen hundred and ninety, by Andrew Ellicott, who was duly appointed for that purpose by the president of the United States, in pursuance of a resolution of congress, passed nineteenth August, seventeen hundred and eighty-nine, which said line, and its prolongation due north into the waters of Lake Erie until it intersects the northern boundary of the United States aforesaid, have since been acknowledged and recognized by the said two states, as a part of the limit of their respective territory and jurisdiction shall, notwithstanding any possible want of conformity to the verbal description thereof, as contained in said deed of cession, continue to be the boundary or partition line between the two said states, so far as said line so surveyed and marked in seventeen hundred and ninety shall extend.

Fourth. The monumental marks by which the said boundary line, except such portions thereof as may be within the waters of the Delaware river, and Lake Erie, shall hereafter be known and recognized, are hereby declared to be—

1. The original monuments of stone, erected in the years seventeen hundred and eighty-six and seventeen hundred and eighty-seven by the commissioners aforesaid, and in the year seventeen hundred and ninety by Andrew Ellicott aforesaid, as the same have been restored and re-established in their original positions, or have been replaced by granite monuments erected in the years eighteen hundred and eighty-one, eighteen hundred and eighty-two, eighteen hundred and eighty-three, eighteen hundred and eighty-four and eighteen hundred and eighty-five, by H. Wadsworth Clarke, surveyor on the part of New York, and Christopher M. Gere, surveyor on the part of Pennsylvania, duly appointed by the parties hereto.

II. The new monuments of granite, erected in the years eighteen hundred and eighty-one to eighteen hundred and eighty-five, inclusive, by the aforesaid surveyors, at intervals of one mile, more or less, and numbered consecutively, along said line originally surveyed and marked in the years seventeen hundred and eighty-six and seventeen hundred and eighty-seven, beginning from the Delaware river, and severally marked on the north side with the letters 'N. Y.,' and on the other side with the letters 'PA.' and along said line originally surveyed and marked in the year seventeen hundred and ninety, beginning at the shore of Lake Erie, and severally marked on the east side with the letters 'N. Y.,' and on the west side with the letters 'PA.'

III. The new monuments of granite erected by the said surveyors,

in the years eighteen hundred and eighty-one to eighteen hundred and eighty-five, inclusive, aforesaid, at intervening points on said line, and at its intersection with public roads, railroads and rivers, and at other points, and severally marked on the one side with the letters 'N. Y.,' and on the other side with the letters 'P. A.'

IV. A large monument of granite, erected in the year eighteen hundred and eighty-four by the said surveyors six hundred feet west of the center of the Delaware river in the said line originally fixed in the year seventeen hundred and eighty-six, to mark its eastern terminus; a large monument of granite erected in the year eighteen hundred and eighty-four by the said surveyors in the said line or meridian boundary, as originally fixed in the year seventeen hundred and ninety, one hundred feet north from its intersection with the line originally surveyed as aforesaid, in the year seventeen hundred and eighty-seven, which said point of intersection is marked by a small monument of granite buried in the center of the highway, in eighteen hundred and eighty-four by the said surveyors; and also a large monument of granite erected in the year eighteen hundred and sixty-nine by John V. L. Pruyn, George R. Perkins, Samuel B. Woolworth, and George W. Patterson on the part of the state of New York, and William Evans on the part of the state of Pennsylvania, four hundred and forty feet south of the original monuments erected in the year seventeen hundred and ninety, by Andrew Ellicott aforesaid, upon the south shore of Lake Erie, in the line originally surveyed and marked by him as aforesaid.

Fifth. The field book of said surveyors containing the notes of the re-surveys along said line in the years eighteen hundred and seventy-seven, eighteen hundred and seventy-eight and eighteen hundred and seventy-nine; also the 'record of monuments' prepared by said surveyors, containing the descriptions of the locations of the several monuments erected by them, and of the witness marks thereto; also the maps of said line, and the vicinity thereof, showing the locations of said monuments; and also the 'diary of operations' of said surveyors under the direction of the parties hereto; the same having been duly authenticated by the signature of the said surveyors, and the several documents and books of record containing the transactions of the parties hereto; all of which being placed on file in the office of the secretary of state of New York, and the office of the secretary of internal affairs of Pennsylvania, shall constitute the permanent and authentic records of said boundary line, and are hereby adopted by the parties hereto, and made a part of this agreement.

Sixth. This agreement shall become binding upon the two states when ratified by the legislatures thereof, respectively, and when confirmed by the congress of the United States.

In witness whereof the said commissioners have hereunto set their hands and seals in duplicate, the twenty-sixth day of March, eighteen hundred and eighty-six, aforesaid.

Executed in the presence of witnesses :

As to Henry R. Pierson : Edward I. Devlin,——H. R. Pierson, L. S.

As to E. W. Leavenworth : H. W. Clarke,——E. W. Leavenworth, L. S.

As to Chauncey M. Depew : Edward I. Devlin,——Chauncey M. Depew, L. S.

As to C. M. Gere : A. D. Birchard,——C. M. Gere, L. S.

As to Robert N. Torry : Andrew Thompson,——Robert N. Torry, L. S."

§ 7. The New Jersey boundary line.—The boundary line between the states of New York and New Jersey is as follows :

Commencing at the said "tri-state monument," and running thence along the line laid out by a joint commission from the states of New York and New Jersey in 1774, and which was more definitely marked with monuments by another joint commission in 1832, under chapter 340 of the laws of 1880, on an average course S. 51° E., with slight deflections as to the same is marked by mile monuments, a distance of 48.20 miles to the station rock on the west bank of the Hudson river, said station rock being in latitude 40° 59' 48.17" north and longitude 73° 54' 11" west, as determined by the United States coast survey, and marked as the original terminal monument of the line as established in 1774, according to the report of the commissioners on the boundary between the state of New York and the state of New Jersey, dated March 24, 1884; thence easterly to a point in the Hudson river in latitude 40° 59' 49.74" north and longitude 73° 53' 38.57" west; thence southerly along the middle of said river and of the bay of New York to a point opposite the northeast angle of Staten Island; thence westerly along the center of the Kill von Kull to a point opposite the northwest angle of Staten Island; thence southerly along the center of the Arthur kill or Staten Island sound to a point at the entrance of Raritan bay, such point being in latitude 40° 29' 55.57" north, and longitude 74° 15' 33.31" west, as the same is shown on maps and agreement filed by a joint commission of the two states in the office

of the secretary of state, and dated December 23, 1889; thence easterly through the center of Raritan bay to a point between Sandy Hook and Coney Island as the same is shown on a map filed with the secretary of state, and dated October 12, 1877, thence easterly to the main sea.

Such metes and bounds are as reported October 12, 1887, and December 23, 1889, by commissioners to mark out and locate the boundary line in land under water, between the states of New York and New Jersey, and are in accordance with and subject to the two agreements between commissioners of such states, made, respectively, September 16, 1833, and June 7, 1833, and which took effect, respectively, February 5, 1834, and May 23, 1834, the dates of the approvals of the acts of congress consenting thereto. The ratification and confirmation by this state of such agreements are continued in force. The following are copies of such agreements, respectively :

Agreement made between the commissioners on the part of the state of New York, and the commissioners on the part of the state of New Jersey relative to the boundary line between the two states.

Agreement made and entered into by and between Benjamin F. Butler, Peter Augustus Jay and Henry Seymour, commissioners duly appointed on the part and behalf of the state of New York, in pursuance of an act of the legislature of the said state, entitled "An act concerning the territorial limits and jurisdiction of the state of New York and the state of New Jersey," passed January 18, 1833, of the one part, and Theodore Frelinghuysen, James Parker and Lucius Q. C. Elmer, commissioners duly appointed on the part and behalf of the state of New Jersey, in pursuance of an act of the legislature of the said state, entitled "An act for the settlement of the territorial limits and jurisdiction between the states of New Jersey and New York," passed February 6, 1833, of the other part.

ARTICLE FIRST.—The boundary line between the two states of New York and New Jersey, from a point in the middle of Hudson river opposite the point on the west shore thereof, in the forty-first degree of north latitude, as heretofore ascertained and marked, to the main sea, shall be the middle of the said river, of the bay of New York, of the waters between Staten Island and New Jersey, and of Raritan bay, to the main sea, except as hereinafter otherwise particularly mentioned.

ARTICLE SECOND.—The state of New York shall retain its present jurisdiction of and over Bedlow's and Ellis' islands, and shall also retain exclusive jurisdiction of and over the other islands lying in the waters above mentioned, and now under the jurisdiction of that state.

ARTICLE THIRD.—The state of New York shall have and enjoy exclusive jurisdiction of and over all the waters of the bay of New York, and of and over all the waters of Hudson river lying west of Manhattan island and to the south of the mouth of Spuytenduyvel creek, and of and over the lands covered by the said waters to the low water mark on the westerly or New Jersey side thereof; subject to the following rights of property and of jurisdiction of the state of New Jersey, that is to say :

1. The state of New Jersey shall have the exclusive right of property in and to the land under water lying west of the middle of the bay of New York and west of the middle of that part of the Hudson river which lies between Manhattan island and New Jersey.

2. The state of New Jersey shall have the exclusive jurisdiction of and over the wharves, docks and improvements made, and to be made, on the shore of the said state, and of and over all vessels aground on said shore, or fastened to any such wharf or dock; except that the said vessels shall be subject to the quarantine or health laws, and laws in relation to passengers, of the state of New York, which now exist or which may hereafter be passed.

3. The state of New Jersey shall have the exclusive right of regulating the fisheries on the westerly side of the middle of said waters, provided that the navigation be not obstructed or hindered.

ARTICLE FOURTH.—The state of New York shall have exclusive jurisdiction of and over the waters of the Kill van Kull, between Staten Island and New Jersey, to the westernmost end of Shooter's island, in respect to such quarantine laws and laws relating to passengers as now exists, or may hereafter be passed under the authority of that state, and for executing the same; and the said state shall also have exclusive jurisdiction, for the like purposes, of and over the waters of the sound, from the westernmost end of Shooter's island to Woodbridge creek, as to all vessels bound to any port in the said state of New York.

ARTICLE FIFTH.—The state of New Jersey shall have and enjoy exclusive jurisdiction of and over all the waters of the sound between Staten Island and New Jersey, lying south of Woodbridge creek, and of and over all the waters of Raritan bay lying west-

ward of a line drawn from the light-house at Prince's bay to the mouth of Mattavan creek, subject to the following rights of property and of jurisdiction of the state of New York.

1. The state of New York shall have the exclusive right of property in and to the land under water, lying between the middle of the said waters and Staten Island.

2. The state of New York shall have the exclusive jurisdiction of and over the wharves, docks and improvements made and to be made, on the shore of Staten Island; and of and over all vessels aground on said shore, or fastened to any such wharf or dock, except that the said vessel shall be subject to the quarantine or health laws, and laws in relation to passengers of the state of New Jersey which now exist, or which may hereafter be passed.

3. The state of New York shall have the exclusive right of regulating the fisheries between the shore of Staten Island and the middle of the said waters, provided that the navigation of the said waters be not obstructed or hindered.

ARTICLE SIXTH.—Criminal process issued under the authority of the state of New Jersey, against any person accused of an offence committed within that state; or committed on board of any vessel being under the exclusive jurisdiction of that state as aforesaid; or committed against the regulations made or to be made by that state, in relation to the fisheries mentioned in the third article; and also civil process issued under the authority of the state of New Jersey against any person domiciled in that state, or against property taken out of that state to evade the laws thereof; may be served upon any of the said waters within the exclusive jurisdiction of the state of New York, unless such person or property shall be on board a vessel aground upon, or fastened to the shore of the state of New York, or fastened to a wharf adjoining thereto; or unless such person shall be under arrest, or such property shall be under seizure, by virtue of process or authority of the state of New York.

ARTICLE SEVENTH.—Criminal process issued under the authority of the state of New York, against any person accused of an offence committed within that state; or committed on board of any vessel being under the exclusive jurisdiction of that state as aforesaid; or committed against the regulations made or to be made by that state, in relation to the fisheries mentioned in the fifth article; and also civil process issued under the authority of the state of New York against any person domiciled in that state, or against property taken out of that state to evade the laws thereof; may be served upon any

of the said waters within the exclusive jurisdiction of the state of New Jersey, unless such person or property shall be on board a vessel aground upon, or fastened to the shore of the state of New Jersey, or fastened to a wharf adjoining thereto; or unless such person shall be under arrest, or such property shall be under seizure, by virtue of process or authority of the state of New Jersey.

ARTICLE EIGHTH.— This agreement shall become binding on the two states when confirmed by the legislatures thereof respectively, and when approved by the congress of the United States.

Done in four parts (two of which are retained by the commissioners of New York, to be delivered to the governor of that state, and the other two of which are retained by the commissioners of New Jersey, to be delivered to the governor of that state), at the city of New York, this sixteenth day of September, in the year of our Lord one thousand eight hundred and thirty-three, and of the independence of the United States, the fifty-eighth.

(Signed,)

B. F. BUTLER,
PETER AUGUSTUS JAY,
HENRY SEYMOUR,
THEO. FRELINGHUYSEN,
JAMES PARKER,
LUCIUS Q. C. ELMER.

“An agreement made the seventh day of June, in the year eighteen hundred and eighty-three, between Henry R. Pierson, Elias W. Leavenworth and Chauncey M. Depew, commissioners on the part of the state of New York, and Abraham Browning, Thomas N. McCarter and George H. Cook, commissioners on the part of the state of New Jersey.

WHEREAS, By the first section of chapter three hundred and forty of the laws of the state of New York for the year eighteen hundred and eighty, it was recited, among other things, that whereas, by an act of the legislature passed the twenty-sixth day of May, eighteen hundred and seventy-five, the regents of the university of the state of New York were authorized and directed, in connection with the authorities of Pennsylvania and New Jersey, respectively, to replace any monuments which have become dilapidated or been removed on the boundary lines of those states, and it was thereby declared that the lines originally laid down and marked with monuments by the several joint commissioners, duly appointed for that purpose, and which have since been acknowledged and legally recognized by the several states interested, as the limits of their territory and jurisdic-

diction, are the boundary lines of said states irrespective of want of conformity to the verbal descriptions thereof; and by the second section of the same chapter of the laws of the state of New York, the said regents were authorized and empowered to designate and appoint three of their number as commissioners, to meet such commissioners as may have been, or may be, appointed on the part of the states of Pennsylvania and New Jersey, or either of them, and with such last named commissioners, as soon as may be, to proceed to ascertain and agree upon the location of said lines as originally established and marked with monuments, and in case any monuments are found dilapidated or removed from their original location, said commissioners are authorized to replace them in a durable manner in their original positions, and to erect such additional monuments at such places on said lines as they may deem necessary for the proper designation of the boundary lines of said states; and

WHEREAS, Also the above-named Henry R. Pierson, Elias W. Leavenworth and Chauncey M. Depew have been duly designated and appointed by the said the regents of the university of the state of New York, commissioners on the part of said state for the purposes mentioned in said act; and

WHEREAS, Also by an act of the legislature of the state of New Jersey, entitled 'An act appointing commissioners to locate the northern boundary line between the states of New York and New Jersey and to replace and erect monuments thereon,' approved April thirteen, eighteen hundred and seventy-six, the governor of the state of New Jersey was authorized to appoint three commissioners with power, on the part of said state of New Jersey, to meet any authorities on the part of the state of New York, who may be duly authorized, and with them to negotiate and agree upon the true location of the said boundary line between the states of New York and New Jersey, and also to replace any monuments which may have become dilapidated, or been removed, on said boundary line, and to erect new ones, which agreement it was thereby enacted should be in writing and signed and sealed by the authorities of the state of New York and the commissioners of the state of New Jersey; and

WHEREAS, The above-named Abraham Browning, Thomas N. McCarter and George H. Cook have been duly appointed commissioners on the part of the state of New Jersey, under said act; and

WHEREAS, By a supplement to the last said act, approved on the twenty-fifth day of March, eighteen hundred and eighty-one, the

commissioners under the last said act were, in addition to the authority conferred by the last said act, also authorized in their discretion to proceed to ascertain and agree upon the location of the northern boundary line between the states of New York and New Jersey, as originally established and marked with monuments, and in case any monuments are found dilapidated, or removed from their original location, said commissioners were authorized to renew and replace them in a durable manner in their original positions, and to erect such additional monuments, at such places on said line, as they may deem necessary for the proper designation of the boundary line of said states; and

WHEREAS, The said commissioners, acting for and on behalf of their respective states, have entered upon the performance of the duties imposed upon them by the said acts, and have, in pursuance of the authority to them severally given as aforesaid, agreed, and hereby do agree, as follows:

First. The lines extending from the Hudson river on the east to the Delaware river on the west, as the same was laid down and marked with monuments in seventeen hundred and seventy-four, by William Wickham and Samuel Gale, commissioners on the part of the then colony of New York, duly appointed for that purpose in pursuance of an act of the assembly of the colony of New York, passed on the sixteenth day of February, seventeen hundred and seventy-one, entitled 'An act for establishing the boundary or partition line between the colonies of New York and Nova Cæsarea, or New Jersey, and for conferring titles and possession,' and John Stevens and Walter Rutherford, commissioners on the part of the then colony of New Jersey, duly appointed in pursuance of an act of the assembly of the colony of New Jersey, passed on the twenty-third day of September, seventeen hundred and seventy-two, entitled 'An act for establishing the boundary or partition line between the colonies of New York and Nova Cæsarea, or New Jersey, and for conferring titles and possession,' which said line has since been acknowledged and recognized by the two states as the limit of their respective territory and jurisdiction, shall, notwithstanding its want of conformity to the verbal description thereof as recited by said commissioners, continue to be the boundary or partition line between the said two states; provided that wherever upon said line the location of one or more of the monuments, erected by said commissioners in seventeen hundred and seventy-four, has been lost and cannot be otherwise definitely fixed and determined, then, and in that case and

in every case where it is required to establish intervening points on said line, a straight line drawn between the nearest adjacent monuments whose localities are ascertained shall be the true boundary line.

Second. The monumental marks by which said boundary line shall hereafter be known and recognized are hereby declared to be, first, the original monuments of stone erected in seventeen hundred and seventy-four, along said line, by the commissioners aforesaid, as the same has been restored and re-established in their original positions by Edward A. Bowser, surveyor on the part of New Jersey, and Henry W. Clarke, surveyor on the part of New York, duly appointed by the parties hereto; second, the new monuments of granite erected by the aforesaid surveyors at intervals of one mile, more or less, along said line and numbered consecutively, beginning from the Hudson river, and severally marked on the northerly side with the letters N. Y., and on the southerly side with the letters N. J.; and third the monuments of granite erected by the aforesaid surveyors at intervening points on said line at its intersection with public roads, railroads and rivers, and severally marked by them, on the northerly side with the letters N. Y., and on the southerly side with the letters N. J., and fourth, the terminal monuments erected at the western terminus of said line at the confluence of the Delaware and Navesink rivers, and the terminal monument erected on the brow of the rock called the Palisades, near the eastern terminus, and the rock lying and being at the foot of the Palisades on the bank of the Hudson river, and marked as the original terminal monument of said line established in seventeen hundred and seventy-four, as the same are described in a joint report made to the parties hereto by Elias W. Leavenworth, commissioner on the part of New York, and George H. Cook, commissioner on the part of New Jersey.

Third. The field books of said surveyors containing the descriptions of the locations of the several monuments erected by them and of the witness marks thereto, the report of said surveyors containing the account of their work in ascertaining and marking said line, together with the topographical map of said line and the vicinity thereof, and the several documents and books of record containing the transactions of the parties aforesaid, having been duly authenticated and attested by the signatures of the said commissioners, and placed in file in the offices of the secretaries of state of the two states, shall constitute the permanent and authentic records of said boundary line, and are hereby adopted by the parties hereto, and made part of this agreement.

Fourth. This agreement shall become binding on the two states when confirmed by the legislatures thereof, respectively, and when confirmed by the congress of the United States.

In witness whereof, the said commissioners have hereto set their hands and seals, in duplicate, this seventh day of June, in the year of our Lord one thousand eight hundred and eighty-three.

HENRY R. PIERSON.

E. W. LEAVENWORTH.

CHAUNCEY M. DEPEW.

A. BROWNING.

THOMAS N. McCARTER.

GEO. H. COOK.

Executed in the presence of:

Witness as to Henry R. Pierson, A. C. Judson, Albany, N. Y.

As to Chauncey M. Depew, W. J. Van Arsdale.

As to commissioners of New Jersey, B. Williamson.

Witness to the signature of E. W. Leavenworth, A. F. Lewis."

TRENTON, JANUARY 18, 1890.

An agreement, made the twelfth day of October in the year 1887, between Mayo W. Hazeltine, Robert Moore and Lient. G. C. Hanus, U. S. N., commissioners on the part of the state of New York, and George H. Cook, Robert C. Bacot and A. B. Stoney, commissioners on the part of the state of New Jersey.

WHEREAS, By chapter 69, of the laws of the state of New York for the year 1887, the governor was authorized to appoint three commissioners on the part of the state of New York, with full power to meet with the commissioners duly authorized on the part of the state of New Jersey, and with them locate and mark out by proper monuments and buoys the true boundary line between the two states in lands under water in Raritan bay; and

WHEREAS, The said Mayo W. Hazeltine, Robert Moore and Lient. G. C. Hanus, U. S. N., were duly appointed commissioners on the part of the state of New York for the purposes mentioned in the said act; and

WHEREAS, By an act of the legislature of the state of New Jersey, passed April 20, 1886, entitled a "Joint resolution authorizing the appointment of a commissioner to locate and mark out the boundary line between the state of New Jersey and the state of New York in Raritan bay," the governor of the state of New Jersey was authorized to appoint three commissioners, with power on the part

of the state to meet any authorities duly authorized on the part of the state of New York, and with them locate by proper buoys the boundary line between the two states of lands under water in Raritan bay; and

WHEREAS, The said George H. Cook, Robert C. Bacot and A. B. Stoney, were duly appointed commissioners for the purposes of said act; and

WHEREAS, The said commissioners, acting for and on behalf of their respective states, have entered upon the performance of the duties imposed upon them by said act, and have in pursuance of the authority to them severally given as aforesaid agreed and hereby do agree upon a boundary line between the two states in lands under water in Raritan bay, and locate the same as follows:

First.—From the "Great Beds Lighthouse" in Raritan bay north $20^{\circ} 16'$ west, true, to a point in the middle of the waters of Arthur kill or Staten Island sound, equidistant between the south-westerly corner of the dwelling house of David C. Butler, at Ward's Point, on Staten Island, in the state of New York, and the south-easterly corner of the brick building on the lands of Cortlandt L. Parker, at the intersection of the westerly line of Water street with the northerly line of Lewis street, in Perth Amboy, in the state of New Jersey.

Second.—From "Great Beds Lighthouse" S. $64^{\circ} 21'$ E. true, in the line with the center Waackaack or Wilson's beacon, in Monmouth county, New Jersey, to a point at the intersection of the said line with a line connecting "Morgan No. 2" triangulation point U. S. coast and geodetic survey in Middlesex county, New Jersey, with the granite and iron beacon marked on the accompanying map as "Romer Stone Beacon," situated on the "Dry Romer Shoal;" and thence on a line bearing N. $77^{\circ} 9'$ E. true, connecting "Morgan No. 2" triangulation point U. S. coast and geodetic survey in Middlesex county, New Jersey, with said "Romer Stone Beacon" (the line passing through said beacon and continuing in the same direction) to a point at its intersection with a line drawn between the "Hook Beacon" on Sandy Hook, New Jersey, and the triangulation point of the U. S. geodetic survey known as the Oriental Hotel on Coney Island, New York; then southeasterly at right angles with the last mentioned line to the main sea.

Third.—The monumental marks by which said boundary line shall be hereafter known and recognized are hereby declared to be as follows:

1. The "Great Beds Lighthouse."

2. A permanent monument marked "State Boundary Line, New York and New Jersey," and to be placed at the intersection of the line drawn from the "Great Beds Lighthouse" to "Waackaack or Wilson's Beacon," Monmouth county, New Jersey, and the line drawn from "Morgan No. 2" triangulation point U. S. coast and geodetic survey, in Middlesex county, New Jersey, to the "Romer Stone Beacon."

3. Eight buoys or spindles to be marked like the permanent monument above mentioned, and placed at suitable intervening points along the line from the said permanent monument to the "Romer Stone Beacon."

4. The "Romer Stone Beacon."

Fourth.—The maps accompanying and filed with this agreement, showing the location of the above described boundary line between the state of New York and the state of New Jersey in Raritan bay to the main sea, and of the monumental marks by which it is marked and to be marked, duly authenticated and attested by the signatures of the said commissioners, and placed on file in the offices of the secretaries of state of the respective states, shall constitute the permanent and authentic records of said boundary line, and are hereby adopted by the parties hereto, and made a part of this agreement.

In witness whereof, the said commissioners have hereto set their hands and seals in duplicate, this twelfth day of October, in the year of our Lord 1887.

M. W. HAZELTINE.	[L. s.]
GEO. H. COOK.	[L. s.]
ROBERT MOORE.	[L. s.]
ROB'T C. BACOT.	[L. s.]
G. C. HANUS, LIEUT. U. S. N.	[L. s.]
A. B. STONEY.	[L. s.]

Certified to

EDWARD P. DOYLE,

Secretary of Joint Commission.

An agreement made the twenty-third day of December, in the year eighteen hundred and eighty-nine, between Mayo W. Hazeltine, Robert Moore and Lieut. G. C. Hanus, U. S. N., commissioners on the part of the state of New York, and Robert C. Bacot, William M. Oliver and Edwin A. Stevens, commissioners on the part of the state of New Jersey.

WHEREAS, By chapter 69, laws of 1887, the governor of the state of New York was authorized to appoint three commissioners with full power on the part of the state of New York, to meet with the commissioners appointed, or to be appointed, for a like purpose on the part of the state of New Jersey, and with them to locate and mark out by proper monuments and buoys the true boundary line between the two states in lands under water in Raritan bay; and

WHEREAS, The jurisdiction of the said commissioners was continued and extended by chapter 159, laws of 1888, and chapter 212, laws of 1889, so as to include the Arthur kill, Kill von Kull, New York bay and the Hudson river; and

WHEREAS, The said Mayo W. Hazeltine, Robert Moore and Lieut. G. C. Hanus, U. S. N., were duly appointed commissioners on the part of the state of New York, for the purposes mentioned in said acts; and

WHEREAS, By an act of the legislature of the state of New Jersey, passed February 14, 1888, entitled, "A joint resolution authorizing the appointment of a commission to locate and mark out the boundary line between the state of New Jersey and the state of New York, in lands under water in the Arthur kill, Kill von Kull, New York bay and the Hudson river;" and

WHEREAS, George H. Cook, Robert C. Bacot and William M. Oliver were duly appointed commissioners for the purpose of said act; and

WHEREAS, George H. Cook having died, Edwin A. Stevens was appointed in his stead, clothed with the same powers; and

WHEREAS, The said commissioners acting for and on behalf of their respective states, have entered upon the performance of the duties imposed upon them by the said acts of their respective legislatures, and have, in pursuance of the authority to them severally given as aforesaid, agreed and hereby do agree upon a boundary line between the two states in lands under water in the Arthur kill, Kill von Kull, New York bay and the Hudson river, and do locate the same as follows:

First — Starting from a point (at the conclusion of the boundary line in Raritan bay) and marked for the purposes of this agreement, A.

This point is equidistant between the southwesterly corner of the dwelling-house of David C. Butler, at Ward's Point, on Staten Island, in the state of New York, and the southeasterly corner of the brick building on the lands of Cortlandt L. Parker, at the intersection of

the westerly line of Water street with the northerly line of Lewis street, in Perth Amboy, in the state of New Jersey.

The line runs thence in a succession of straight lines through the Arthur kill, the Kill von Kull, New York bay and the Hudson river, to a point marked "J J," for the purposes of this agreement.

This point "J. J.," is at the extreme northern limit of the boundary line in lands under water, and from this point the line runs westerly to a rock which is described in the report of the New York and New Jersey boundary commission of 1883 as marking the eastern end of the boundary line between New York and New Jersey, as determined upon by the royal boundary commission of 1769.

The absolute geographical locations of the point at the place of beginning and the point of conclusion are as follows :

POINT A (PLACE OF BEGINNING).

Latitude. Seconds in meters. Longitude. Seconds in metres.
(Latitude and longitude not given. Description sufficient.)

POINT J J (PLACE OF CONCLUSION).

Latitude.	Seconds in meters.	Longitude.	Seconds in meters.
40° 59' 49"	74 N. 1534.38	74° 53' 38"	57 W. 901.46

The points at which changes of direction occur in the boundary line, from the place of beginning to the place of conclusion, are for the purposes of this agreement lettered or numbered, and their determinations and absolute geographical positions are as follows :

LATITUDE.			Seconds in meters.	LONGITUDE.			Seconds in meters.
Degrees.	Minutes.	Seconds.		Degrees.	Minutes.	Seconds.	
B 40	30	31 N.	956.2	74	15	30.74 W.	723.9
C 40	30	56 N.	1727.33	74	15	16.22 W.	382.
D 40	31	15.07 N.	464.8	74	14	47.15 W.	1109.9
E 40	32	31.9 N.	984.	74	15	02.5 W.	58.8
F 40	32	57.38 N.	1769.9	74	14	52.42 W.	1233.9
G 40	33	32.68 N.	1008.	74	13	54.57 W.	1284.
H 40	33	25.03 N.	772.	74	13	06.29 W.	148.
I 40	33	37.54 N.	1157.9	74	12	53.95 W.	1269.4
J 40	34	25.03 N.	772.	74	12	38. W.	893.7
K 40	35	16.12 N.	498.	74	12	27.55 W.	647.9
L 40	35	51.87 N.	1599.9	74	12	00. W.	0.
No. 1 40	36	01. N.	30.8	74	12	00. W.	0.
No. 2 40	36	21.45 N.	661.6	74	12	18.88 W.	443.9
No. 3 40	36	51.02 N.	1573.7	74	12	15.48 W.	363.9
No. 4 40	37	00. N.	0.	74	12	10.21 W.	240.
O 40	37	27.36 N.	844.1	74	12	15.61 W.	366.9
P 40	37	43.24 N.	1333.7	74	12	09.69 W.	227.9
R 40	37	53.36 N.	1645.9	74	12	10.12 W.	238.
S 40	38	04.86 N.	149.9	74	11	54.87 W.	1289.3
Position.			Center of Baltimore and Ohio Bridge Pier.				
40	38	15.31 N.	472.3	74	11	47.97 W.	1125.9
A' 40	38	30.92 N.	953.7	74	11	30.63 W.	719.8

LATITUDE.			LONGITUDE.			Seconds in meters.
Degrees.	Minutes.	Seconds.	Degrees.	Minutes.	Seconds.	
B' 40	38	45.38 N.	74	11	09.79 W.	229.9
C' 40	38	47.13 N.	74	10	55.42 W.	1301.8
D' 40	38	30.79 N.	74	08	36.68 W.	861.9
E' 40	38	36.89 N.	74	08	00. W.	0.0
F' 40	38	31.37 N.	74	07	35.15 W.	825.8
G' 40	38	52.66 N.	74	06	36.94 W.	867.9
H' 40	38	52.66 N.	74	05	37.88 W.	889.8
I' 40	39	05.05 N.	74	05	14.64 W.	343.09
J' 40	39	04.94 N.	74	03	22.25 W.	522.65
K' or						
AA 40	42	00. N.	74	01	36.50 W.	857.0
BB 40	43	04.68 N.	74	01	26.59 W.	624.07
CC 40	45	26.82 N.	74	00	52. W.	1219.66
DD 40	49	26.82 N.	73	57	50.38 W.	1180.6
EE 40	51	03.62 N.	73	57	11.69 W.	273.78
FF 40	53	19.05 N.	73	55	48.77 W.	1141.7
GG 40	55	40.03 N.	73	54	52.82 W.	1235.61
HH 40	56	48.22 N.	73	54	33.35 W.	780.06
II 40	58	54.39 N.	73	53	47.63 W.	1113.58
JJ 40	59	49.74 N.	73	53	38.57 W.	901.46

Second.—The monumental marks by which said boundary line shall hereafter be known and recognized have been carefully described, their absolute geographical positions given, and this description and location will be filed in the office of the secretary of state of New York and the secretary of state of New Jersey.

Third.—The maps accompanying and filed with this agreement, showing the location of the above mentioned boundary line between the state of New York and the state of New Jersey in lands under water in Arthur kill, Kill von Kull, New York bay and the Hudson river, and of the monumental marks by which such line may be distinguished and known, duly authenticated and attested by the signatures of the aforesaid commissioners, and placed on file in the offices of the secretaries of state of the respective states, shall constitute the permanent and authenticated record of said boundary line, and are hereby adopted by the parties hereto and made part of this agreement.

In witness whereof, the said commissioners have hereto set their hands and seals in duplicate, this twenty-third day of December, in the year of our Lord eighteen hundred and eighty-nine.

M. W. HAZELTINE, [L. s.]

ROBERT MOORE, [L. s.]

G. C. HANUS, [L. s.]

R. C. BACOT, [L. s.]

W. M. OLIVER, [L. s.]

E. A. STEVENS, [L. s.]

Attest:

EDWARD P. DOYLE,

Secretary Joint Boundary Commission.

§ 9. *Restoration of monuments.*—The state engineer and surveyor shall during the year 1893, and every third year thereafter, cause to be made an examination and inspection of all the monuments of the state boundary, and make a detailed report thereof to the legislature. The state engineer and surveyor, in co-operation with persons duly authorized by the adjoining state, shall restore or replace all injured, displaced or removed monuments, and cause suitable stone monuments to be set wherever such are now lacking at the points where such state boundary is intersected by the boundary of any towns or counties of this state, or by any highway.

§ 10. *Saving clause.*—This article shall not be construed as a relinquishment by the state of New York of any territory to which it now has title, or over which it now has jurisdiction.

§ 11. Defense of state sovereignty and jurisdiction.— The governor shall, at the expense of the state, employ counsel and provide for the defense of any action or proceeding, instituted against the state, or against any person deriving title therefrom, to recover any lands within the state, under pretence of any claim inconsistent with its sovereignty and jurisdiction.

ARTICLE II.

CESSIONS TO THE UNITED STATES.

SECTION 20. Cession without reservation; Little island in Hudson river.

21. Authorization of acquisition and cession of jurisdiction thereupon without reservation.
22. Cession with reservation of right to serve process.
23. Authorization of acquisition and cession of jurisdiction thereupon, with reservation of right to serve process.
24. Cession during ownership by the United States, with reservation of right to serve process.
25. Authorization of acquisition, and cession of jurisdiction thereupon during ownership by the United States, with the reservation of the right to serve process.
26. Cession during ownership by the United States, and use for public purposes, with reservation of the right to serve process.
27. Authorization of acquisition by the United States, and cession of jurisdiction thereupon during ownership by the United States, and use for public purposes, with reservation of the right to serve process.
28. Cession during use for purposes thereof, with reservation of the right to serve process.
29. Authorization of acquisition and cession of jurisdiction thereupon during use for purposes thereof, with reservation of the right to serve process.
30. Authorization of acquisition and cession of jurisdiction thereupon, with reservations of concurrent jurisdiction and right to serve process.
31. Cession during ownership by the United States, and use for purposes thereof, with sundry reservations.
32. Cession during use for purposes thereof, with sundry reservations.
33. Cession with sundry reservations.
34. Cession during use for purposes thereof, with sundry reservations.
35. Cession of jurisdiction to lands acquired for light-house purposes.
36. Acquisition by condemnation
37. Saving clause.

§ 20. Cession without reservation, Little island in Hudson river.— Title and jurisdiction has been ceded to the United States by this state to a tract of land known as Little island, in the Hudson

river, opposite New Baltimore, acquired by the United States for a light-house site and keepers' dwellings.

§ 21. **Authorization of acquisition and cession of jurisdiction thereupon without reservation.**—The United States has been authorized to acquire the following tracts or parcels of land, and jurisdiction thereof has been ceded to the United States by this state upon such acquisition :

1. **On the Long Island coast.**—Certain tracts of land on the Long Island coast, each tract not exceeding one-half acre in area, for building sites for life-saving stations.

2. **Priming Hook, Columbia county.**—A tract of land one-half acre in area at Prymon's Hook, otherwise called Priming Hook point, Columbia county, for a site for a beacon light.

3. **Calver's plat, Columbia and Rensselaer counties.**—A tract or parcel of land consisting of one acre of the south point of the island known as Calvers plat. Said island lies in the Hudson river, part in the county of Columbia, and part in the county of Rensselaer, and in the town of Schodack; the said acre conveyed under this title is bounded as follows: Beginning at a stake and stones at the south point of said Calvers plat, and runs north to stake and stones at a point on the west side of said island, 6 chains; thence S. 85.5° E., 3 chains to high-water mark, to the water's edge on the east shore of said island; then S. 12.25° W., 3 chains and 11 links to a point on the shore; thence S. 73.75° W., 1 chain and 75 links to a point on the shore; thence S. 35.5° W. 2 chains and 30 links to the place of beginning at the south point of said island, for the construction and maintenance of a light-house, beacons and keepers' dwellings.

4. **Near Mull's plat, Rensselaer county.**—A tract or parcel of land lying in the Hudson river, in the county of Rensselaer, and state of New York, lying north of a line running S. 76° 45' E., and more particularly described as follows, viz. : Beginning at a stake set up at the west side of an island known as Mull's plat, on a course of S. 76° 45' E. from the northeast corner of Barrent Ten Eyck's brick house, now occupied by Thomas C. Houghtailing, and runs from the said stake along a line of marked trees standing on the north point of an island known as Parcey's island, and now in the possession of the parties of the first part, and then runs from the aforesaid stake S. 76° 45' E., 6 chains and 60 links to the water's edge on the east side of the aforesaid island; then northerly along the water's edge and east side thereof, to the north point of the aforesaid island; then southerly along the water's edge and west

side to the place of beginning, containing an acre of land, be the same more or less, for the construction and maintenance of a light-house, beacons and keepers' dwellings.

5. **Poplar island, Rensselaer county.**—A tract or parcel of land in the town of Schodack, county of Rensselaer, and on the north end of an island known by the name of Poplar island, bounded and described as follows, viz.: Beginning at a stake set upon the west shore of the aforesaid island, and on a course of S. 78° 30' E. from the northeast corner of William O. Lawton's brick store, and runs thence from the said stake, N. 78° 30' E., 3 chains and 60 links to a stake on the east side of said island; then along the east side thereof, N. 9° W., 3 chains and 59 links, to a point on the north end of the aforesaid island; then S. 80° W. 2 chains, to a point on the north and west shore of said island; then along the west shore thereof, S. 14° 15' W., 4 chains and 4 links, to the place of beginning, containing one acre of land be the same more or less, for the construction and maintenance of a light-house, beacons and keepers' dwellings.

6. **Water supply at West Point.**—Such tracts of lands, lands under water, rights of way and easements, at or near the United States military post at West Point, as have been acquired or may be required for the purpose of increasing the water supply of such post, the commanding officer of said post being authorized to enter upon any lands to make surveys thereof for such purpose.

§ 22. **Cession with reservation of right to serve process.**—Title and jurisdiction to the following described tracts or parcels of land have been ceded to the United States by this state on condition the jurisdiction so ceded should not prevent the execution thereon of any process, civil or criminal, issued under the authority of the state, except as such process might affect the property of the United States therein:

1. **Montock point, Suffolk county.**—A tract of land at Montock point, in the county of Suffolk, known by the name of Turtle hill, and bounded as follows: "Beginning at the beach, and at a rock laying on a hommock, at the bottom of the said hill, and runs thence N. 82° W., 11 chains and 58 links; thence S. 5° W. 5 chains; thence S. 15° E., 9 chains, to a rock marked John Champlain, 1788; thence on the same course to low water mark; thence northeasterly along low water mark, until the point of beginning bears N. 82° W.; thence to the place of beginning," acquired for the erection of a light-house thereon.

2. **In Huntington, Suffolk county.**—"All that certain lot, piece or parcel of land at the northern extremity of Eaton's neck, in the town of Huntington, in the county of Suffolk, beginning at the northernmost point thereof, upon the shore at high water, which is distant from a stone fixed in the ground and bears N. 12° W., 2 chains and 24 links; thence along the high water line of the shore S. 75° W., 12 chains 75 links; thence S. 12° E., 2 chains 45 links to a stone fixed in the ground; thence S. 12° E., 2 chains 58 links; thence S. 36° E., 2 chains and 70 links; thence S. 63° E. 1 chain 82 links; thence N. 70° E. 10 chains 17 links; thence N. 12° W., to the stone first mentioned 5 chains 62 links; thence N. 12° W., 2 chains and 24 links to the place of beginning, containing ten acres," acquired for the erection of a light-house thereon.

3. **Islands in New York harbor.**—Three certain islands in and about the harbor of New York, viz.: Bedlow's island and Ellis or Oyster island, bounded on all sides by the waters of the Hudson river, and Governor's island, bounded on all sides by the waters of the East river and Hudson river.

4. **Great Gull and Little Gull islands, Suffolk county.**—Great Gull island and Little Gull island, in the county of Suffolk, and bounded on all sides by the waters of the East river*, acquired for the erection of a light-house thereon.

5. **Sands or Watch Point, Queens county.**—A tract of land at Sands or Watch Point, on Long Island, in the town of North Hempstead, county of Queens, described as follows: "Beginning on the easterly side of said point, at a place or point in the line of ordinary high water mark, being N. 56° E., from a large walnut or hickory tree, marked on three sides, standing upon the upland, and running thence (from the said point in high water mark) across the said point of land on a course S. 56° W., so as to pass about four feet southerly of a small marked buttonwood tree, standing on the bank, and passing through the center of the said walnut or hickory tree marked on three sides, and through the center of a high white oak tree marked on two sides, to ordinary high water mark on the westerly side of said point of land; and thence to the line of ordinary high water mark to and around the said point of land to the point or place of beginning, in the line of ordinary high water mark on the easterly side of said point of land, containing five acres of land, be the same more or less," acquired for the erection of a light-house.

6. **Galoo island, Lake Ontario.**—A tract of five acres on the

* So in the original.

head of Galoo island, in Lake Ontario, "commencing 75 links S. 45° E., from a large oak tree standing on the lake shore at a stake and stones marked U. S., from thence S. 45° W., 12 chains and 90 links to a cedar stake and stones marked U. S., from thence northwesterly along the lake shore 11 chains and 80 links to a point, on the edge of a large flat rock 2 chains due south from the centre of the spot fixed on for a light-house, from thence N. 45° W., 2 chains and 65 links on a flat rock, from thence N. 45° E., 5 chains and 80 links to the place of beginning," acquired for the erection of a light-house thereon.

7. **Island near Rouse's Point, Lake Champlain.**—A small island near Rouse's Point, on Lake Champlain, called Island Point; and also over the land under the water opposite to lots number 60, 61, 62, 63, 64, 65 and 66 of the small lots in the tract of land heretofore laid out for the Canadian and Nova Scotia refugees: "Beginning on the west shore of Lake Champlain, in the line run for the north bounds of this state, and running thence east, to the distance of 500 feet from low water's mark; thence southerly, keeping at the said distance of 500 feet from low water's mark of said shore of Lake Champlain, and the shore of said island, until a west course will strike the southwest corner of the said lot number sixty-six, then west to the same, and then northerly, following the shore of the said lake, and the shore of the said island, to place of beginning."

8. **At mouth of Oswego river.**—A tract of six acres at the mouth of the Oswego river, and on the southerly side of the Oswego fort, in the county of Oswego, bounded as follows, viz.: "Beginning at a stake and stones marked L. H. standing S. 35° W., 82 links, from the southwest angle of the fort; thence S. 75° E., 9 chains and 20 links, to a stake and stones marked L. H. thence S. 15° W., 7 chains 35 links, to a stake and stones marked L. H., thence N. 75° W., 7 chains and 65 links, to a stake and stones marked L. H., standing on the bank of the lake; thence northerly along said bank, to a point where the north line of the lot intersects said bank; thence southeasterly along said line about 48 links, to the place of beginning," acquired for the erection of a light-house thereon.

9. **At mouth of Genesee river.**—A tract of three acres and 115 rods, at the mouth of the Genesee river, on the west side thereof, being part of village lot number twenty-eight, in the village of Charlotte, in the former town of Gates, and county of Monroe, bounded as follows: "Beginning at the easterly side of Main street, at a stake and stones one chain southerly from the north-

easterly corner of said lot number twenty-eight, running thence S. $61^{\circ} 45'$ E., 2 chains and fifty links, to a stake and stones; thence N. $28^{\circ} 15'$ E., 1 chain, to the northerly line of said lot; thence S. $61^{\circ} 45'$ E., 8 chains and 48 links, to the said river; thence S. 26° W., along the said river, 2 chains to a stake and stones; thence N. $61^{\circ} 45'$ W., 2 chains and 50 links, to a stake and stones; thence S. 2 chains, to the southerly line of said lot number twenty-eight; thence N. $61^{\circ} 45'$ W., 8 chains and 63 links, along the said line, to the said Main street; thence N. $28^{\circ} 15'$ E., 3 chains to the place of beginning, containing three acres and 150 rods," acquired for the erection of a light-house thereon.

10. **In Sodus, Wayne county.**—A tract in the town of Sodus in the county of Wayne, bounded as follows: "Beginning on the shore of Lake Ontario, on the east bounds of Ontario street, running thence south on the said east bounds of the street 9 chains and 16 links, to a cedar post at the north end of Captain Wickham's board fence; thence N. $63^{\circ} 40'$ E., 4 chains and 23 links, to a cedar stake near the south point of the bank on the north side of the flat; thence N. 40° E., 3 chains and 37 links, to the shore of the lake; thence along the shore N. $36^{\circ} 30'$ W., 3 chains and 85 links; thence N. 66° W., 3 chains and 98 links, to the place of beginning; containing three acres and one-fourth, and thirty perches of land," acquired for the erection of a light-house thereon.

11. **At Buffalo, Erie county.**—A tract of half an acre in Buffalo, Erie county, described in a deed thereof, executed by Joseph Ellicott, as attorney for the grantors, to the United States as follows: "All that certain tract of land, situate, lying and being in the village of Buffalo, in the county of Niagara and state of New York, being part or parcel of a certain township which, on a map or survey of divers tracts or townships of land made for the proprietors by Joseph Ellicott, surveyor, is distinguished by township number eleven, in the eighth range; beginning at a stone in the northern bounds of outer lot number thirty-six, in said village, standing N. 49° E., 54 links from the northwest corner of said lot, thence bounding on land conveyed to Joseph and Benjamin Ellicott, by deed bearing date February 29, 1812, N. 48° E., 6 chains and 1 link to the southwestern bank of Buffalo creek; thence bounding on the said bank of the said creek, N. 87° W., 1 chain and 27 links; thence by a line parallel to the northern bounds of said lands conveyed to Joseph and Benjamin Ellicott by deed as aforesaid, S. 48° W., 5 chains and 11 links to a stone, and thence S. 42° E., 90 links, to the

place of beginning, containing half an acre, be the same more or less," acquired for the erection of a light-house thereon.

12. **At Oldfield point, Suffolk county.**—A tract of land at Oldfield point, on Long Island sound, in the county of Suffolk, bounded as follows: "Commencing at a stake at high water mark, from thence running a course S. $49^{\circ} 20'$ W., 788 feet, to a cherry tree and fence; thence down along the fence a course N. $30^{\circ} 18'$ W., from the cherry tree to high water mark, 245 feet; thence the same course, to low water mark; thence along the sound at low water mark, a northerly and easterly course round the point, to a place opposite to the place of beginning; and thence the first mentioned course, to the stake or place of beginning," acquired for the erection of a light-house thereon.

13. **At Throg's neck, Westchester county.**—A tract of land at Throg's neck, in the county of Westchester, bounded as follows: "Commencing at high water mark, and running a course N. $36^{\circ} 30'$ E., to a certain painted rock, and from thence the same course to high water mark, being 766 feet; thence southerly and westerly around the point, to a painted rock at low water mark; thence the first mentioned course, to the place of beginning," acquired for the erection of a light-house thereon.

14. **In New Utrecht, Kings county.**—A tract of land in the town of New Utrecht, Kings county, described as follows: "Beginning at the bay or river on the division line of the hereby described premises, and land now or late belonging to Jane Smith, and running thence along the said division line N. 58° E., 1 chain and 50 links, to a certain stake standing on the bank; thence along the said line N. 37° E., 67 chains and 80 links, to certain lands now or late belonging to John S. Denyse; thence along the last mentioned lands S. 57° E., 3 chains and 92 links, to certain lands now or late belonging to Isaac Cortelyou; thence along the last mentioned lands and along certain lands now or late belonging to Jaques Cortelyou, S. 28° W., 37 chains 42 links; thence along the last mentioned lands the five following courses, to wit, S. $38^{\circ} 40'$ W., 23 chains, to a certain rock; thence S. 41° W., 4 chains 47 links; thence S. 25° E., 3 chains and 25 links; thence S. 64° W., 7 chains 43 links; thence S. 41° W., 1 chain and 30 links, to the bay or river aforesaid; thence north-westerly along the said bay or river, to the place of beginning; containing sixty acres, one rood and six perches of land;" and the second of which is bounded as follows: "Beginning at the southeasterly point of the land next before described, thence N. 62° E., 180 yards;

thence N. 20° W., 75 yards; thence N. 42° E., 310 yards; thence S. 60° E., 242 yards; thence S. 25° W., 160 yards; thence N. 60° W. about 185 yards, to a point near a pond; thence S. 33° W., 195 yards; thence S. 53° W., 220 yards, to the bay or river; thence along the said bay, 90 yards, to the place of beginning; according to a plat and survey thereof, containing sixteen acres and one-half acre of land," acquired for the erection of fortifications thereon.

15. **In New Utrecht, Kings county.**—A tract of land in the town of New Utrecht, Kings county, described as follows: "Beginning at the water's edge at the southeast point of the first parcel of land above described; thence N. 41° E., 1 chain and 30 links; thence N. 64° E., 7 chains and 43 links; thence N. 25° W., 3 chains and 25 links; thence N. 41° E., 4 chains and 47 links; thence N. 38° 40' E., 9 chains and 10 links; thence S. 60° E., 11 chains and 69 links; thence S. 25° W., 7 chains and 28 links; thence N. 60° W., 8 chains and 41 links; thence S. 35° W., 8 chains and 86 links; thence S. 53° W., 10 chains; thence along the water's edge, to the place of beginning; containing seventeen acres, fourteen perches and one hundred and five yards of land," acquired for the erection of fortifications thereon.

16. **In Islip, Suffolk county.**—A tract of land and beach, in the town of Islip, in the county of Suffolk, being the west end of the east branch of Fire-island inlet, "beginning on the southerly side of the same, at low water mark, on the Atlantic ocean, in a range of branded stakes; thence north thirty-two chains, to low water mark on the Great South bay, including all the land to the west of the said north line to Fire-island inlet aforesaid, at low water mark," acquired for the erection of a light-house thereon.

17. **In Haverstraw, Rockland county.**—A tract of land in the town of Haverstraw, in the county of Rockland, being the extreme point of land called Stony-Point, on the Hudson river, "beginning at the river at high water mark, on the south side of the point, at a stake, thence across the point, north four degrees west, (passing thirty-five links to the west of the fort) to the river at high water mark; thence along the same at high water mark round the point to the place of beginning," acquired for the erection of a light-house or beacon thereon.

18. **In Cornwall, Orange county.**—A certain tract of land in the town of Cornwall, in the county of Orange, described as follows: "Beginning at the northeasterly corner of the piece of land herein intended to be described, at the mouth of a small creek which enters

into the Hudson river near the old stores, and thence up and along the southeasterly side of the said creek to its intersection with the northeasterly side of the road leading from West-Point to John Cronkhite's; thence southeasterly along the northeasterly side of the said road to its intersection with the road which leads from West-Point southerly to the Widow Kinsley's; thence from said point of intersection due south, to a point 7 chains south of the line which divides the Gridley farm from the post of West-Point; thence S. 81° E., to the Hudson's river, on a line parallel with the said division line; and from thence northwardly along the low water mark of the said river, to the place of beginning, containing two hundred and twenty acres or thereabouts."

19. In **Lyme, Jefferson county**.—A certain tract of land in the town of Lyme in the county of Jefferson, being the extreme point of land called Tibbets' point, described as follows: "Beginning at a stake standing on the extreme point thereof, on the bank of Lake Ontario; thence N. 7° $30'$ E., 5 chains to a basswood sapling cornered; thence S. 82° $30'$ E., 5 chains and 50 links to a stake cornered, 10 links southwesterly from a maple tree blazed; thence S. 7° $30'$ W., 7 chains and 50 links to a stake on the bank of Lake Ontario, 9 links southerly from a walnut tree blazed; thence N. 49° $45'$ W., 5 chains and 99 links to an angle; thence S. 70° $30'$ W., 97 links to the place of beginning, containing two acres and ninety-six hundredths of an acre of land," acquired for the erection of a light-house thereon.

20. On **Plumb island, Suffolk county**.—A tract of land containing three acres, on the south side of the west end of Plumb island, in the county of Suffolk, and described as follows: "Beginning at low water mark, opposite a rock on the edge of the upland, marked U. S. 1826, and running thence north four degrees east, six chains and three links to a stake on the hill; thence running south seventy-nine degrees west, over a rock at the bottom of the bank marked U. S. to the west point of said island to low water mark; thence south-eastwardly along the shore at low water mark to the place of beginning, opposite to the first mentioned rock, butted and bounded northwardly and eastwardly by lands of Richard Jerome; southwardly and westwardly by the waters of Gardiner's bay and Plumb-Gut;" acquired for the erection of a light-house thereon.

21. On **North Brothers island, Queens county**.—A tract of land at the western extremity of North Brothers island, in Long Island sound, county of Queens, containing not less than one nor more than five acres, acquired for the erection of a light-house thereon.

22. In **Esopus, Ulster county**.—A tract of land under water in the town of Esopus, Ulster county, at or near the junction of the Roundout and Hudson rivers, not exceeding two acres in area, acquired for the erection of a light-house or beacon light thereon.

23. At **Esopus meadows, Ulster county**.—A tract of land in the town of Esopus, in the county of Ulster, at a place called the Esopus meadows or flats, in the Hudson river, and covered with the waters, and which is described as follows: Beginning at a point on the west side of the channel of the Hudson river, on the edge of the said channel, in eighteen inches water at low water, from whence a course S. 2° E. will strike the northwest corner of Governor Lewis's dock, and a course N. 2° E. will strike the window in the store on Thompson's dock, and a course S. 43° E. will strike the northeast corner of Emmet's house, and a course N. 65° W. will strike a small house on the west side of the river, occupied by Henry Terpenning, and a course S. 27° W. will strike the store on Degraff's dock; thence from said point down the river five chains; thence towards the west bank of the river at right angles to the first course five chains; thence with a course parallel to the first course five chains; thence with a course parallel to the second course five chains, to the place of beginning, acquired for the erection of a light-house thereon.

24. In the city of **Buffalo, Erie county**.—A tract of land in the city of Buffalo on the east side of the Niagara river, described as follows: Beginning at the point of intersection of the westerly line of the Lockport and Buffalo railroad with the southerly line of lot number eight of the state reserve; thence N. 82° 10' W., 75 feet, more or less, to the towing path of the Erie canal enlargement; thence N. 2° 10' E., 75 feet; thence S. 82° 10' E., 75 feet, more or less, to the Lockport and Buffalo railroad; thence S. 2° 10' W., 75 feet, to the place of beginning, acquired for the erection of a light-house or beacon thereon.

25. In the bay of **New York**.—A tract of land, being such portion of the lands under water comprising what is known as West bank, in the lower bay of the port of New York, and Old Orchard shoals, required and occupied by the United States in the erection thereon of wharves and warehouses for the reception of goods and merchandise arriving in such port in vessels subject to quarantine by the laws of this state.

26. **David's island, New Rochelle**.—A tract of land situate in the harbor of New Rochelle, and known as David's island, acquired by the United States to be used for military purposes.

27. At West Point, Orange county.—Certain tracts of land at West Point, Orange county, acquired by the United States prior to May 15, 1875, for the erection and maintenance thereon of forts, arsenals, docks and piers, military academy, hospitals and other needful buildings, and for the maintenance of the national cemetery and an observatory.

§ 23. Authorization of acquisition and cession of jurisdiction thereupon, with reservation of right to serve process.—The United States has been authorized to acquire the following tracts or parcels of land, and jurisdiction thereof has been ceded to the United States by this state upon such acquisition, on condition that such jurisdiction should not prevent the execution thereon of any process, civil or criminal, issued under the authority of the state, except as such process might affect the property of the United States therein :

1. At Bluff point, Staten Island.—A tract at Bluff point, Staten Island, for the erection of fortifications thereon.

2. On Staten Island.—Certain lands on Staten Island belonging to the state of New York and used for military purposes, prior to February 6, 1836, required by the United States for the construction and maintenance of proper defenses for the protection of the harbor of New York, and which the commissioners of the land office have been authorized to convey accordingly.

3. At Black Rock, Erie county.—A tract or tracts of land in the south village of Black Rock, at or near Buffalo, being so much of blocks Nos. 167, 168 and 186, in such village, required for the site of barracks and defensive works.

4. At sundry places for light-house purposes.—Certain tracts of land, and land under water, for the construction and maintenance of light-houses, beacon lights and keepers' dwellings :

For a beacon or range light on Staten Island, in the rear of the Elm Tree beacon, to serve as a range for the Swash channel.

For a light-house on Point au Roche, on the west side of Lake Champlain.

For three beacons in North river—one at the south point of the island east of Barren Island ; one at the north point of the island opposite and east of Coeymans' bar ; and one on the point of the island at the mouth of Schodack channel, and opposite Mall rocks.

For a beacon to be placed on the extreme eastern point of the north fork of Long Island.

For a light-house on or near Carlton head, in the St. Lawrence river.

For a beacon light on south end of Cow or Campbell's island, in the Hudson river, near Castleton.

For a beacon light on Little island, in the Hudson river, near New Baltimore.

For a beacon light at Priming Hook point, east side of Hudson river, north of Hudson city.

For a beacon light west side of Hudson river, between Athens and Catskill.

For a first-class light-house near "Great West bay," Suffolk county, Long Island, New York.

For a beacon light at Lloyd's harbor, Suffolk county, Long Island, New York.

For a light-house at Horton's point, Suffolk county, Long Island, New York.

For light-house at Race point, Fisher's island, Suffolk county, New York.

For a light-house at or near Windmill point, Lake Champlain, New York.

For a beacon light on "Isle au Motte," Lake Champlain, New York.

For nine beacon lights near Whitehall, Lake Champlain, New York.

On Fisher's island, eastern end of Long Island sound, New York, ten and three-tenths acres, more or less. On Barber's point, Lake Champlain, New York, nine acres, more or less. On Bluff point, Valcour island, Lake Champlain, New York, two acres, more or less. On the west bank of Oak Orchard creek, near its mouth, in Orleans county, purchased from Abram V. Clark of the same county, one-half acre, more or less; and at Fair Haven, Cayuga county, New York five acres or less.

For a light-house on North Brother island or vicinity, East river, New York.

For a light-house on Hart island or vicinity, western end of Long Island sound, New York.

For a light-house at or near Crown Point, Lake Champlain, New York.

For a light-house site and keeper's dwelling on Cumberland head, in the county of Clinton, not exceeding ten acres, adjoining the site occupied by a light-house in 1872.

For a light-house and other light-house purposes on Lake Ontario, in the town of Somerset, county of Niagara.

For light-houses on the Hudson river, at Tarrytown, Livingston creek and in Persey's reach, between Catskill and Hudson.

5. At Suspension Bridge.—A tract of land in the village of Niagara city, New York, described as follows: Beginning at the north-east intersection of Bridge and Spring avenues, and running in a northerly direction along said Spring avenue eighty-six feet and seven inches; thence running easterly in a line parallel with the line of Bath avenue sixty-four feet, more or less, to a point sixteen feet from the lands of the New York Central Railroad Company; thence northerly to Bath avenue, parallel with and distant sixteen feet from the said lands of the New York Central Railroad Company; thence easterly along Bath avenue sixteen feet; thence southerly 117 feet eleven inches more or less, to the line of Bridge avenue; and thence westerly along the line of Bridge avenue seventy-five feet, to the point or place of beginning, for the purpose of a custom-house and post-office.

6. At Oswego.—A tract of land in the city of Oswego, described as follows: Commencing at the southwestern angle of the cut stone work of the United States pier, runs thence S. 3° W., 7 feet, to the east side line of Third street; thence S. 17° E. along said street line, 36 feet; thence S. 87° E., 115 feet; thence N. 3° E., 261 feet, to a point in the west line of Second street prolonged; thence N. 17° W., along said Second street, 120 feet to the northerly side of the United States pier; thence S. $56^{\circ} 30'$ W., along the northern line of said pier, 110 feet, to the northwestern angle thereof; thence S. 17° E., along the westerly side of said pier, 250 feet, to the place of beginning, for the purpose of erecting, repairing and maintaining a pier for the protection of the harbor of Oswego.

7. At Oswego.—A tract of land in the north end of blocks four and five, of military lot number five, in the first ward of the city of Oswego, and described as follows: Beginning at a point on the margin of Lake Ontario, 164.35 feet S. $88^{\circ} 14'$ E. of the point of intersection of the west line of Fourth avenue with the east side of the new pier, and running thence S. $3^{\circ} 30'$ W., parallel to the line of Fourth avenue, 155.02 feet to a nail in a stake, marked "U. S.;" thence N. $86^{\circ} 30'$ W., at right angles with the last mentioned line, and with the line of Fourth avenue, and passing through a nail in a stake on the west line of Fourth avenue 150 feet, from its intersection with the east line of the pier, 406.25 feet, to a nail in a stake, marked "U. S.;" thence N. $3^{\circ} 30'$ E., parallel to the line of Fourth avenue, and at right angles with the last mentioned line 75.95 feet,

to a cross on a boulder on the margin of the lake; thence along the margin of the lake, at low water mark, to the place of beginning, together with all the land under water lying in front of the said above bounded and described premises; the plat so bounded containing, exclusive of the land under water, 1.201 acres of land, for occupation for the storage of materials, and as sites for offices and store houses, for the purpose of erecting, repairing and maintaining a pier, for the formation of a harbor at Oswego.

8. **At West Point, Orange county.**—A tract or tracts of land constituting, on May 15, 1888, the whole or a part of the estate of E. V. Kinsley, deceased, and to the south of and adjoining the government lands at West Point, Orange county, for the erection and maintenance of forts, magazines, arsenals, dock-yards, military academy, hospitals and other needful buildings.

9. **Round pond, Orange county.**—A tract of land and land under water known as Round pond, in the town of Highlands, Orange county, and certain lands adjacent thereto amounting in all to 49.72 acres, for increasing the water supply of West Point; and any minerals, mineral right, or right appertaining to such mineral right, in such pond, and the lands adjacent thereto, owned by the United States, and in lands through which the right of laying a water pipe from such pond to the lands of the United States at West Point, was granted prior to January 1, 1881.

10. **At Whitehall narrows, Lake Champlain.**—A tract of land under water in Whitehall narrows, Lake Champlain, at a point on the westerly edge of the channel opposite Devil's Pulpit, so called, in the town of Dresden, Washington county, described as follows: A circle 200 feet in diameter, the center of which bears from the following points as follows: From beacon No. 12, N. 45° 30' E.; from beacon No. 15, S. 37° W.; From Devil's Pulpit, S. 60° E.; from Pulpit point, N. 50° E., for the purpose of erecting a light-house thereon, and which the commissioners of the land office have been authorized to convey accordingly.

11. **At Whitestone point, Queens county.**—A tract of land twenty-five feet square, situate on the north end of Whitestone point, Queens county, for the purpose of establishing and maintaining lights or other aids to navigation thereon.

12. **On Riker's island, East river.**—A tract of land of the area of a circle of twenty-five feet in diameter, on the northwest point of Riker's island, East river, for the purpose of establishing and maintaining lights or other aids to navigation thereon.

13. **At Spuyten Duyvil.**— Certain tracts of land, or land under water, necessary for the improvement of the Harlem river and Spuyten Duyvil creek, and for the construction of a channel, from the North river to the East river, through the Harlem kills.

14. **In the city of New York.**— A certain tract or tracts of land in the city of New York, being such parts of the City Hall park, as have been conveyed to the United States by the mayor, aldermen and commonalty of the city of New York; except such part of such land as may have been reconveyed by the United States to the mayor, aldermen and commonalty of the city of New York.

§ 24. **Cession during ownership by the United States, with reservation of right to serve process.**— Title and jurisdiction to the following tracts or parcels of land have been ceded to the United States by this state, on condition that the jurisdiction so ceded should not prevent the execution thereon of any process, civil or criminal, issued under the authority of the state, except as such process might affect the property of the United States therein, and that such jurisdiction shall continue in the United States so long only as the land shall remain the property of the United States:

1. **At West Point.**—A tract of land under water described as follows: Beginning at a point at high water mark on the west shore of the Hudson river on south line of lands belonging to the United States and northeast corner of lands belonging to Edward V. Kinsley, and running thence into the river from high water mark S. 70°, E. 125 feet; thence N. 31° E., 3165 feet, to a point fifty feet east of the most easterly point at high water mark of a point of land at base of "Battery Knox;" thence N. 20° E., 1850 feet, to a point sixty feet east of high water mark at "Gee's Point;" thence N. 52° 20' W. 1375 feet; thence N. 75° 30' W. 445 feet, to a point fifty feet north of the northwest corner of the "North dock;" thence N. 47° 25' W. 2175 feet, to a point three hundred feet east of high water mark; thence N. 23° 45' W. 1420 feet, to a point one hundred feet east of high water mark; thence N. 7° 55' W. 1718 feet, to a point fifty feet east of high water mark; thence N. 9° 5' W. 1803 feet, to a point one hundred feet east of high water mark, and in range with the north line of the United States lands; thence N. 89° 20' W. 100 feet, to a bolt set in a rock for the northeast corner of said lands of the United States; acquired for the purpose of erecting and maintaining docks, wharves, boat-houses, batteries, and other needful military structures and appurtenances.

2. **At Governor's island.**—A tract of land under water contiguous to the lands of the United States at Governor's island, described as follows: Beginning at a point fifty feet from the head of the main wooden dock, commonly known as the quartermaster's dock and on a line with the north face of said dock, running thence S. $5^{\circ} 13'$ W. 137 feet; thence S. $14^{\circ} 44'$ W. 595 feet; thence S. $29^{\circ} 25'$ W. 490 feet; thence S. $53^{\circ} 58'$ W. 622 feet; thence N. $78^{\circ} 27'$ W. 1088 feet; thence N. $18^{\circ} 55'$ W. 1,565 feet; thence N. $17^{\circ} 4'$ E. 535 feet; thence N. $79^{\circ} 58'$ E. 318 feet to a point fifty feet from the head of the Castle William's dock and on a line with the west face of said dock; thence N. $89^{\circ} 48'$ E. 584 feet; thence S. $74^{\circ} 23'$ E. 786 feet; thence S. $45^{\circ} 44'$ E. 751 feet to a point fifty feet from the head of the stone dock, and on a line with the north face of said dock; thence S. $20^{\circ} 33'$ E. 222 feet to the point of beginning, acquired for the purpose of erecting and maintaining docks, wharves, boat-houses, sea walls, batteries and other needful structures and appurtenances.

3. **At Bedloe's island.**—A tract of land under water contiguous to the lands of the United States at Bedloe's island, described as follows: Beginning at a point fifty feet from the head of the main dock or wharf and on a line with the southwest face of said dock; running thence S. $41^{\circ} 13'$ W. 424 feet; thence N. $72^{\circ} 13'$ W. 423 feet; thence N. $24^{\circ} 23'$ W. 548 feet; thence N. $20^{\circ} 19'$ E. 639 feet; thence N. $62^{\circ} 1'$ E. 262 feet; thence S. $27^{\circ} 7'$ E. 1255 feet, to a point fifty feet from the head of the main dock and on a line with the northeast face thereof; thence S. $33^{\circ} 4'$ W. forty feet to the point of beginning, acquired for the purpose of erecting and maintaining docks, wharves, boat-houses, sea walls, batteries and other needful structures and appurtenances.

4. **At Ellis's island.**—A tract of land under water contiguous to the lands of the United States at Ellis island, described as follows: Beginning at a point fifty feet from the head of the east dock and on a line with the north face of said dock; running thence S. $18^{\circ} 30'$ E. 605 feet; thence S. $71^{\circ} 30'$ W. 202 feet; thence N. $81^{\circ} 19'$ W. 313 feet; thence N. $32^{\circ} 4'$ W. 178 feet, this line being parallel to the head of the west dock, and distant fifty feet from said dock; thence due north 577 feet; thence S. $70^{\circ} 47'$ E. 424 feet to the point of beginning, acquired for the purpose of erecting and maintaining docks, wharves, boat-houses, sea walls, batteries and other needful structures and appurtenances.

5. **At David's island.**—A tract of land under water contiguous

to the lands of the United States at David's island, described as follows: Beginning at a point one hundred and fifty feet from the head of the new dock (commonly called the coal dock), and on a line with the north-west face of said dock; running thence N. $3^{\circ} 20'$ E. 755 feet; thence N. $79^{\circ} 5'$ E. 630 feet; thence N. $6^{\circ} 12'$ E. 1096 feet; thence N. $52^{\circ} 25'$ E. 552 feet; thence S. $69^{\circ} 18'$ E. 647 feet; thence S. $36^{\circ} 28'$ E. 604 feet; thence S. $35'$ E. 1066 feet; thence S. $13^{\circ} 54'$ E. 834 feet; thence S. $23^{\circ} 55'$ W. 427 feet; thence S. $71^{\circ} 49'$ W. 1121 feet; thence N. $48^{\circ} 18'$ W. 1550 feet, to the point of beginning, acquired for the purpose of erecting and maintaining docks, wharves, boat-houses, sea walls, batteries and other needful structures and appurtenances.

6. **At Fort Lafayette.**— A tract of land under water contiguous to the lands of the United States at Fort Lafayette, described as follows: Beginning at a point ninety-two feet west from the prolongation of the west face of the fort, and eighty feet north from the prolongation of the north face of the said fort, running thence S. $67^{\circ} 34'$ E. 448 feet; thence S. $22^{\circ} 26'$ W. 448 feet; thence N. $67^{\circ} 34'$ W. 448 feet; thence N. $22^{\circ} 26'$ E. 448 feet to the point of beginning, acquired for the purpose of erecting and maintaining docks, wharves, boat-houses, sea walls, batteries and other needful structures and appurtenances.

7. **At Fort Hamilton.**— A tract of land under water contiguous to the lands of the United States at Fort Hamilton, described as follows: Beginning at a point at high-water mark on the western boundary line of the United States land there situate; running thence in continuation of said boundary line S. $64^{\circ} 45'$ W. 320 feet; thence due south for 233 feet to a point seventy-five feet from head of the dock (or wharf) and on a line with the north face of said dock; thence S. $49^{\circ} 37'$ E. 1915 feet to a point on the continuation of the southern boundary line of the said United States land; thence along said continuation N. $21^{\circ} 10'$ E. 165 feet to a point at high-water mark, on said southern boundary line of said United States land, acquired for the purpose of erecting and maintaining docks, wharves, boat-houses, sea walls, batteries and other needful structures and appurtenances.

8. **At Fort Wadsworth.**— A tract of land under water contiguous to the lands of the United States at Fort Wadsworth (or Tomkins)*, described as follows: Beginning at a point at high-water mark on the northern boundary line of the United States land there

* So in the original.

situate; running thence in continuation of said boundary line N. 73° 16' E. forty feet to low-water mark; thence in continuation of said boundary line N. 73° 16' E. fifty feet; thence S. 48° 23' E. 1073 feet; thence S. 9° E. 1652 feet; thence S. 18° 57' E. 700 feet; thence S. 40° W. 850 feet to a point on the continuation of the western boundary line of the said United States land; thence N. 30° 16' W. for 100 feet along said continuation of boundary line to low-water mark; thence N. 30° 16' W. for 350 feet along said continuation to a point at high-water mark on the western boundary line of the United States land, acquired for the purpose of erecting and maintaining docks, wharves, boat-houses, sea walls, batteries, and other needful structures and appurtenances.

9. **At Fort Schuyler.**—A tract of land under water contiguous to the lands of the United States at Fort Schuyler, described as follows: Beginning at a point on the boundary line of the land of the United States at high-water mark on the north shore of Throgg's Neck; running thence in continuation of said boundary line N. 21° 10' E. 257 feet to low-water mark; thence in continuation of said boundary line N. 21° 10' E. sixty-three feet; thence S. 1° 21' E. 988 feet; thence S. 41° E. 1350 feet; thence S. 77° 24' E. for 906 feet; thence S. 44° 20' E. for 543 feet; thence S. 5° 17' W. for 634 feet; thence S. 52° 15' W. for 622 feet; thence N. 63° 19' W. for 698 feet; thence N. 54° 13' W., for 1728 feet; thence N. 49° 33' W. for 1065 feet to a point on the continuation of the boundary line of the said United States land at Throgg's Neck; thence on the line of said continuation N. 21° 10' E. for 77 feet to low-water mark; thence on line of said continuation N. 21° 10' E. for 123 feet to a point at high-water mark on the south shore of said Throgg's Neck and on the boundary line of the present United States land there situate; acquired for the purpose of erecting and maintaining docks, wharves, boat-houses, sea walls, batteries, and other needful structures and appurtenances.

§ 25. **Authorization of acquisition, and cession of jurisdiction thereupon during ownership by the United States, with reservation of right to serve process.**—The United States has been authorized to acquire the following tracts or parcels of land, and jurisdiction thereof has been ceded to the United States, upon such acquisition, on condition that such jurisdiction should not prevent the execution thereon of any process, civil or criminal, issued under the authority of the state, except as such process might affect the property of the United States therein, and that such jurisdiction

shall continue in the United States so long only as the land shall remain the property of the United States.

1. **At sundry places for fortifications.**—Certain tracts of land in or near Buffalo, at or near the mouth of the Genesee river, at or near Sackett's Harbor; and certain islands in the St. Lawrence river, between St. Regis and the Thousand Islands, for the sites of fortifications or defensive works.

2. **In the city of Buffalo.**—A tract or tracts of land in the city of Buffalo, not exceeding (in the whole) one acre, for the purpose of erecting a custom-house, warehouse, court-rooms, post-office, or for either or any of such purposes, and for steamboat inspectors.

3. **In the city of Buffalo.**—A tract of land in the city of Buffalo, not exceeding one acre, for the purpose of erecting a government building thereon.

4. **In Sackett's Harbor.**—A tract of land in the village of Sackett's Harbor in the county of Jefferson, and bounded as follows: Southwesterly by the main street in said village, southeasterly by lands now or late of Edmund Luff and John Warden, heretofore conveyed to them by Augustus Sackett, and on the other sides by the waters of said harbor and of Black River bay, and commonly called Navy point, and the military establishment usually called Fort Tompkins, and being the same premises heretofore conveyed to the United States of America by the executors of the late Henry Eckford, containing about three acres of land more or less, for the purpose of erecting and maintaining thereon fortifications, defensive works or buildings for officers' quarters, and other necessary government purposes.

5. **Islands in the St. Lawrence river.**—Certain islands, or parts thereof, in the St. Lawrence river, for sites for beacon lights and other necessary government purposes.

6. **North Dumplin Island.**—A tract of land in Long Island sound, called the North Dumplin or Hammock, containing about one acre, for the purpose of erecting a light-house thereon.

7. **In the city of Oswego.**—A tract or tracts of land in the city of Oswego, not (in the whole) exceeding one acre, for the purpose of erecting a custom-house, warehouse, post-office and court-room thereon.

8. **In the village of Plattsburgh.**—A tract or tracts of land in the village of Plattsburgh, not exceeding (in the whole) one acre and a half, for the purpose of erecting a custom-house, ware-house, post-office and court-rooms, or either of them.

9. **In the town of Plattsburgh.**—A tract or tracts of land in the town of Plattsburgh, Clinton county, not exceeding in all one thousand acres, for military purposes, for use as a parade ground, or for any military purposes connected with the United States military post at Plattsburgh.

10. **In the city of Utica.**—A tract or tracts of land in the city of Utica, not exceeding in all one acre, for the purpose of erecting a building thereon to be used as a post-office and court-house.

11. **In the city of Albany.**—A tract or tracts of land in the city of Albany, not exceeding one acre, for the erection of a government building thereon.

12. **In the city of Utica.**—A tract or tracts of land in the city of Utica, not exceeding one acre, for the erection of a government building thereon.

13. **In the city of New York.**—A tract of land in the city of New York, bounded by Whitehall, Pearl, Moore and Water streets, together with the buildings thereon, formerly known as the Old Produce Exchange.

14. **In the city of New York.**—A tract of land with the buildings and improvements thereon in the city of New York, bounded by Washington, West, Laight and Hubert streets, and occupied on March 16, 1883, by the United States, under lease, for customs purposes.

15. **In the city of New York.**—A tract of land in the city of New York, described as follows: Constituting the triangular piece of land, being that portion of the grounds commonly known as the Battery in the city of New York, lying westwardly of and adjoining the lands belonging to the United States on April 29, 1873, and between such lands and the slip or basin in the said Battery known as the New Whitehall boat slip.

16. **At New Brighton, Richmond county.**—A tract of land at New Brighton, Richmond county, adjoining the light-house depot as it existed on February 19, 1880, and on the west side thereof, not exceeding two acres, for the purpose of such light-house depot.

17. **In the city of Rochester.**—A tract or tracts of land in the city of Rochester, not exceeding one acre, for the purpose of erecting a government building thereon.

18. **In the city of Syracuse.**—A tract or tracts of land in the city of Syracuse, not exceeding one acre, for the erection of a government building thereon.

19. **In the city of Poughkeepsie.**—A tract or tracts of land in

the city of Poughkeepsie, not exceeding one acre, for the erection of a government building thereon.

20. **In the city of Troy.**—A tract or tracts of land in the city of Troy, not exceeding one acre, for the erection of a government building thereon.

21. **In the city of Auburn.**—A tract or tracts of land in the city of Auburn, not exceeding one acre, for the erection of a government building thereon.

22. **In the city of Hudson.**—A tract or tracts of land in the city of Hudson, not exceeding one acre, for the erection of a government building thereon.

23. **In the city of Binghamton.**—A tract or tracts of land in the city of Binghamton, not exceeding one acre, for the erection of a government building thereon.

24. **At New Lots, Kings county.**—A tract of land partly in the town of New Lots, Kings county, and partly in the town of Newtown, Queens county, containing fifteen and thirty-nine one-hundredths acres, for establishing a national cemetery.

25. **In the city of Newburgh.**—A tract or tracts of land in the city of Newburgh, Orange county, for the purpose of erecting and maintaining thereon a public building for the accommodation of the post-office and other government offices.

26. **In the city of Watertown.**—A tract or tracts of land in the city of Watertown not exceeding two acres, for the erection of a government building thereon.

27. **At Mt. McGregor, Saratoga county.**—A tract of land upon Mt. McGregor, in Saratoga county, described as follows: Commencing at the northeast corner of the lot herein granted, upon which lot is located a cottage known as the "Drexel" cottage, and at a point where an iron pin is driven into the ground, and running southerly on a line parallel with the easterly foundation of said cottage, and fifty feet distant therefrom, one hundred and forty-six feet to an iron pin driven into the ground at the southeast corner of said lot; thence westerly on a line parallel with the south foundation of said cottage and fifty feet distant therefrom one hundred and thirty-one feet to an iron pin driven into the ground at the southwest corner of said lot; thence northerly on a line parallel with the westerly foundation of said cottage and fifty feet distant therefrom, one hundred and forty-six feet to an iron pin driven into the ground at the northwest corner of said lot; thence easterly on a line parallel with the northerly foundation of said cottage and fifty feet distant

therefrom, one hundred and thirty-one feet, to the place of beginning.

§ 26. **Cession during ownership by the United States and use for public purposes, with reservation of right to serve process.**—Title and jurisdiction to the following tracts or parcels of land have been ceded to the United States by this state, upon condition that the jurisdiction so ceded should not prevent the execution thereon of any process, civil or criminal, issued under the authority of the state, except as such process might affect the property of the United States therein, and that such jurisdiction shall continue in the United States so long only as the land shall remain the property of the United States and be used for public purposes :

1. **In Cold Spring harbor, Queens county.**—A tract of land under water in Cold Spring harbor, Queens county, comprised within a circle two hundred feet in diameter, or less than one acre of surface, acquired for a site for a light-house at the middle ground in said harbor.

2. **On Staten Island.**—A tract or tracts of land on Staten Island, being such portions of the Marine Hospital grounds as have been conveyed to the United States by the commissioners of the land office for light-house and other purposes.

3. **At sundry places for light-house purposes.**—Certain tracts of land, and land under water, from time to time deeded to the United States, and occupied for the construction and maintenance of light-houses and keepers' dwellings, sketches and descriptions of which were filed in the office of the secretary of state, on or before April 20, 1874, as follows :

No. 1. Split Rock, Lake Champlain, Essex county, New York, containing five acres, two quarters and six perches, conveyed to the United States by deed dated the fifteenth day of July, 1837.

No. 2. Stuyvesant, county of Columbia, New York, containing five acres, conveyed to the United States by deed dated August thirteenth, 1828.

No. 3. Coxsackie, county of Greene, New York, containing five acres, conveyed to the United States by deed dated the third day of August, 1828.

No. 4. Four Mile Point, town of Coxsackie, county of Greene, New York, containing two acres, two roods and twenty-five rods, conveyed to the United States by deed dated the twelfth day of February, 1831.

No. 5. Cedar-Island light, Gardiner's bay, town of Easthampton,

county of Suffolk, New York, conveyed to the United States by deed dated the twentieth of August, 1838.

Also, for the lands lying under water, and known as submarine sites, sketches and maps of which, by metes and bounds, have been furnished by the United States were filed in the office of secretary of state, on the twentieth day of April, 1874, viz.:

No. 6. Hart's island, situated in Long Island sound, Westchester county, New York, at the south end of Hart island, under water and beyond low water mark, containing three acres and seventy-five hundredths of an acre.

No. 7. Execution Rocks, Long Island sound, one hundred feet in diameter, containing less than an acre, situated seven-eighths of one mile north of Sands Point light, and five miles to the northeast of Fort Schuyler.

No. 8. Robin's Reef, New York harbor, containing an area of less than one acre.

No. 9. Long-beach bar, entrance to Greenport harbor, Long Island, Suffolk county, New York, containing an area of less than one acre.

No. 10. Stratford shoal, Long Island sound, New York, containing an area of less than one acre.

No. 11. Race Rock, off Fisher's Island point, at the western entrance to Fisher's Island sound, Suffolk county, New York, containing an area of less than one acre.

No. 12. Hudson city, middle ground, Hudson river, opposite the city of Hudson, county of Columbia, New York, containing an area of less than one acre.

No. 13. Sangerties, on the mud flat on the north side of entrance to Sangerties creek, county of Ulster, New York, containing an area of less than one acre.

No. 14. Roah Hook, on the west side of Hudson river, behind the angle of the dyke, south of Roah Hook, New York containing an area of less than one acre.

No. 15. Parada Hook, on a point of rocks, lower end of dyke, on west side of the Hudson river, New York, containing an area of less than one acre.

No. 16. Nine-mile tree, Castleton, behind the center of dyke, on the east side of the Hudson river, New York, containing an area of less than one acre.

No. 17. Cross-over dyke, on north end of stone dyke below Albany, on the west side of the Hudson river, New York, containing an area of less than one acre.

No. 18. Cuylers' dyke, on the east side of the Hudson river, on the lower or south end of dyke, near Albany, New York containing an area of less than one acre.

No. 19. Van Wie's point, on the south end of the stone dykes below Albany, New York, on the west side of the Hudson river, containing an area of less than one acre.

No. 20. Potter's or Sea-flower reef, Fisher's Island sound, Suffolk county, New York, about one and a half miles north of Fisher's island, containing an area of less than one acre.

No. 21. Sand spit entrance to Sag Harbor, Suffolk county, Long land sound, New York, containing an area of less than one acre.

No. 22. Branford reef, abreast of Branford harbor, Long Island sound, New York, containing an area of less than one acre.

No. 23. Romer shoal, off Sandy Hook, entrance to New York harbor, containing an area of less than one acre.

No. 24. Oyster-pond *, Plum Gut entrance to Gardiner's bay Long Island sound, Suffolk county, New York, containing an area of less than one acre.

No. 25. The Stepping Stones, about one mile south of Hart island, Long Island sound, New York, containing an area of less than one acre.

No. 26. Mill reef, opposite New Brighton, in the Kill von Kull, Richmond county, New York, containing an area of less than one acre.

§ 27. Authorization of acquisition by the United States, and cession of jurisdiction thereupon during ownership by the United States and use for public purposes, with reservation of right to serve process.—The United States has been authorized to acquire the following tracts or parcels of land, and jurisdiction thereof has been ceded to the United States upon such acquisition, on condition that such jurisdiction should not prevent the execution thereon of any process, civil or criminal, issued under the authority of the state of New York, except as such process might affect the property of the United States therein, and that such jurisdiction shall continue in the United States, so long only as the land shall remain the property of the United States and be used for public purposes.

1. In the city of New York.—A tract of land in the city of New York, fronting on Wall street, and occupie on February 7, 1857, by the United States as an assay office; and also the property north of the same, fronting on Pine street, and also the property adjoining

* So in the original.

said Pine street property on the east, and occupied by the United States, for revenue purposes, on February 7, 1857, as offices for the surveyor for the port of New York, and also that piece or parcel of land bounded by Park row, Beekman and Nassau streets, for the purpose of a post-office.

2. **In the city of New York.**—A tract or tracts of land in the city of New York, and not exceeding in area fifty thousand square feet, for a site for a post-office.

3. **In the city of New York.**—A tract of land in the city of New York, situated in the first ward of the city of New York, and constituting the entire square formed by Wall, William and Hanover streets, and Exchange place, and the Exchange building and improvements erected thereon, covering the whole of said square, for the purpose of a custom-house.

4. **In the city of New York.**—A tract of land in the city of New York, being so much of land belonging to the corporation of such city, and immediately adjoining the northerly side or boundary of the land conveyed to the United States prior to January 1, 1879, by the mayor, aldermen and commonalty of the city of New York, for a site for a post-office, as is now covered by two side-walks, each 103 feet and six inches in length, by nineteen feet two inches in width, with a paved passage-way between eleven feet and eleven inches in width, making a total area of 218 feet and eleven inches in length, by nineteen feet and two inches in width.

5. **In the city of New York.**—A tract or tracts of land in the city of New York, not exceeding in area two hundred thousand square feet, for the purpose of an appraiser's warehouse and other purposes.

6. **In the city of Brooklyn.**—Certain tracts of land in the city of Brooklyn described as follows: Six lots of land with the warehouses thereon erected, in the sixth ward of the city of Brooklyn, on the south pier of the property of the Atlantic Dock Company, known as lots Nos. 53, 54, 55, 56, 57 and 58, on the said south pier of the Atlantic Dock Company, on a certain map inscribed "map of property in the sixth ward of the city of Brooklyn, port of New York, belonging to the Atlantic Dock Company, surveyed September, eighteen hundred and forty-one, by Willard Day city surveyor," said lots each being twenty-five feet front and rear, and one hundred feet deep on each side, for revenue purposes.

7. **In the city of Brooklyn.**—A tract or tracts of land in the city of Brooklyn, for a site for a post-office.

8. **At Hallett's point, Queens county.**—A tract or tracts of land at Hallett's point, Hell Gate, in Queens county, described as follows: Beginning at a point in the westerly line of lot number eighty-nine, and situated one hundred feet from the westerly side of Monson street, if the same were extended, and which point is three feet six inches distant from the south-west corner of said lot number eighty-nine, and running thence north-westerly, at right angles to said Monson street, 154 feet, to low water of the East river; thence along low water line with a course about north, seventy-eight degrees east, about 210 feet to a point in the prolongation of the said westerly side of Monson street, if the same were extended; thence south-westerly parallel to the westerly side of Monson street and in a line one hundred feet distant therefrom, about one * and forty feet to the point or place of beginning. The said last-mentioned line or boundary being coincident with the easterly side of the concrete foundations which have been built for the electric tower now in course of erection at Hallett's point, for the purpose of establishing thereon light-houses or other aids to navigation.

9. **At Coney Island, Kings county.**—Two certain tracts of land at Coney Island, Kings county, the first being described as follows: Beginning at a point where the angle included between the ranges to Centennial Tower and Romer Shoal light-house shall be $87^{\circ} 40'$; the angle between Romer Shoal and Elm Tree light-house, $77^{\circ} 34'$, and the angle between Elm Tree and Fort Tompkins light-house shall be $49^{\circ} 49'$, and running thence N. 60° E., 150 feet; thence N. 30° W., 100 feet, thence S. 60° W., to the Atlantic ocean; thence along the Atlantic ocean to the point of intersection of the same with the prolongation of the first mentioned course; thence N. 60° E., to the place of beginning. The second being described as follows: Beginning at the point of intersection of the range between A. and B. and the division * of lots forty-four and forty-five, and running thence N. 12° E., 25 feet; thence S. 78° E., 25 feet; thence S. 12° W. to the Atlantic ocean; thence along the Atlantic ocean to the point of intersection of the same with division line of lots forty-four and forty-five; thence along division line north twelve degrees east, to the point of beginning; for the purpose of erecting thereon light-houses and fog signals.

10. **At Staten Island, Richmond county.**—A tract of land at Staten Island, Richmond county, described as follows: Beginning at a point on the farm of George W. Vanderbilt, lying east

* So in the original.

of New Dorp lane, distant on a straight line drawn from the north corner of the Elm Tree light-house reservation, on a course N. $54^{\circ} 30'$ E., 206 feet and six inches from said corner, which is formed by the intersection of the southwesterly line of New Dorp lane with the northwesterly line of the Elm Tree light-house reservation; thence running from said point on the farm aforesaid, N. 42° E. 50 feet; thence S. 48° E., 50 feet; thence * 42° W., 50 feet; thence N. 48° W., 50 feet to the point or place of beginning, being a plot fifty feet square; together with a right of way from the plot so conveyed to the northeasterly line of the New Dorp lane over a strip of land ten feet in width, and having as its northerly boundary the line or course of two hundred and six feet and six inches first above set forth; the courses above given being in accordance with the magnetic meridian of June, eighteen hundred and ninety, for the purpose of erecting a light-house thereon.

11. West Troy, Albany county.—Two certain tracts of land at West Troy, town of Watervliet, Albany county, the first being described as follows: Commencing at a point on the east bank of the Erie canal, and which is the southwest corner of lands conveyed by Albert G. Sage to the United States, by deed bearing date the seventeenth day of April, eighteen hundred and fifty-nine, and runs thence easterly along the southerly line of said lands so conveyed by said Sage as aforesaid, about two hundred and fifty-eight feet to the west side of the alley next west of River street or Broadway; thence southerly along the west line of said alley and said line extended, about 300 feet and six inches; thence westerly along the south line of the Gibbons' property, so called, about one hundred and ninety-three feet to the east bank of said Erie canal; and thence northerly along said east bank of said Erie canal, 346 feet, more or less, to the place of beginning. The second being described as follows: Commencing at a point on River street or Broadway, and being the southeasterly corner of the arsenal grounds, as possessed and occupied by the United States prior to the year eighteen hundred and fifty-nine, and runs thence southerly along the west line of said River street or Broadway about three hundred and twenty feet to the north line of lot number sixty-two, as laid down on the original map of Gibbonsville; and runs thence westerly along the north line of said lot number sixty-two and said line extended to the west line of the alley next west of said River street or Broadway; thence northerly along the west line of said alley about

* So in the original.

three hundred and twenty feet to the southerly line of the arsenal grounds, as possessed and occupied by the United States prior to the year eighteen hundred and fifty-nine; and thence easterly along the southerly line of the said arsenal grounds to the place of beginning.

§ 28. **Cession during use for purposes thereof, with reservation of right to serve process.**— Title and jurisdiction to the following tracts or parcels of land have been ceded to the United States by this state, on condition that the jurisdiction so ceded should not prevent the execution thereon of any process, civil or criminal, issued under the authority of the state, except as such process might affect the property of the United States therein, and that such jurisdiction shall continue in the United States so long only as the land shall be used and occupied for the purposes of cession, unless the consent of the state to a different use has been granted.

1. **In the city of New York.**— A tract or tracts of land, and land under water in the city of New York, not exceeding two hundred and fifty feet, being a portion of the eastern end or extremity of the lands and lands under water, formerly known as the Battery extension, including the open slip or basin at the easterly end thereof, together with a right of way or passage not less than seventy-five feet in width, from such lands over and across the lands adjacent thereto, known as the Battery ground, which the mayor, aldermen and commonalty of the city of New York have been authorized to convey to the United States, acquired for the purpose of erecting and establishing a barge office and other suitable buildings and structures for the transaction of the public business connected with the United States revenue service, and for the landing of revenue and other government boats and barges, for the use, accommodation and convenience of the United States custom house for the port of New York, the title of this state in which the commissioners of the land office have been directed to convey.

2. **In Kings county.**— Two certain tracts of land in Kings county, described as follows: All that certain tract, piece or parcel of upland, salt meadow and marsh, bounded as follows: Beginning at the corner of the Wallabout bridge road, and the road leading to Williamsburgh, and running from thence westerly along the bridge road and land of John Ryerson, to a corner; thence westerly along the land of John Ryerson, to a corner; thence westerly along the same and a small creek in the meadow, to the Wallabout bay; thence northerly by the

said Wallabout bay, to the Wallabout creek ; thence easterly by the creek aforesaid to the south corner of the dock ; thence westerly by land of Ida Schenck and the dock, including the road sixty feet (the road to be for the use of the parties interested in the dock and landing); thence 140 feet to the road leading from Williamsburgh to a corner eighty-eight feet from the creek ; thence along said road southerly to the place of beginning, excepting and reserving to Francis Skillman, his heirs and assigns, one undivided half of the dock, and a privilege of a landing at the dock for the owner or occupant of the farm adjoining the herein described premises, lately sold to Charles Bostwick, esquire. Also, all that certain piece of land and meadow on the easterly side of the road to Williamsburgh, beginning against the road at the bridge, and running from thence easterly and southerly by the Wallabout creek to a stake at the said creek ; thence westerly to a notched post against the road ; thence northerly along the road to the place of beginning, altogether in upland, salt meadow and marsh, about thirty-three acres, according to a survey and map of the said lands, made by Jeremiah Lott, in the month of April, 1824. The tracts of land, the jurisdiction whereof is hereby ceded, being the same which were, by an indenture bearing the date the 1st day of July, 1824, conveyed by Sarah Schenck, widow of Martin Schenck, Jane Schenck, widow of Jeromus Schenck, Jacob Harris and Ida his wife, and Isaac Harris and Mary Ann his wife, all of the county of Kings, and state of New York, to the secretary of the navy, the secretary of the treasury, and the secretary of war, for the time being, commissioners of navy hospitals, and to their successors and assigns forever. These cessions were made for the purpose of erecting and maintaining a navy hospital and other necessary edifices and buildings.

3. At Prince's bay, Richmond county.—A tract containing about eight acres and three-quarters of an acre of land, situated at Prince's bay, in the town of Westfield and county of Richmond, and bounded as follows: "Easterly and southerly by the bay at high water mark, as patented to the original proprietors; westerly by Richard Lafourge's land; and northerly by land belonging to the estate of Israel R. Dissosway, deceased; being part of the estate whereof he died seized, acquired for the purpose of erecting a light-house thereon.

4. On Staten Island.—A tract of land not exceeding one acre in extent, on the lands belonging to the state, on and near the southeastern point or projection of Staten Island; to be laid out in such

a manner as not to interfere with the appropriate uses of the military grounds of Fort Tompkins; acquired for the purpose of erecting a light-house thereon.

5. In Raritan bay.—A tract of land under water in Raritan bay, described as follows: The site is on the edge, or southeastern extremity of the shoal known as the Great Beds, which makes out from the New Jersey shore at the intersection of the Raritan river and Perth Amboy channels, and is embraced within a circle seven hundred feet in diameter, the center point of which is distant three-fourths of a mile in a course south twenty-two degrees west from the southwest gable of the dwelling-house of B. C. Butler, at Ward's point, on the southerly shore of Staten Island, and contains 8.83 of an acre in area, as shown on a map and description which have been filed in the office of the secretary of state of this state, acquired for the purpose of erecting a light-house thereon.

6. In Fisher's Island sound.—A tract of land under water in Fisher's Island sound, described as follows: The area embraced within a circle seven hundred feet in diameter, the center of which shall be the spindle that marked the site of "Latimer's reef" on January first, 1883, acquired for the purpose of erecting a light-house thereon.

7. At Gardiner's island, Suffolk county.—A tract of land on Gardiner's island, Suffolk county, described as follows: All that part of the north point of Gardiner's island aforesaid, lying northwest of a line described, and running as follows, to wit: Starting from a stake on a sand ridge, and running thence N. 56° E. and S. 56° W., to the waters on each side of the said point or beach respectively, and bounded northerly, easterly and westerly by the waters of Gardiner's bay, and southeasterly by the beach at the afore said line, containing about fourteen acres more or less, acquired for the purpose of erecting and maintaining thereon a light-house and other necessary buildings.

8. At Rye, Westchester county.—A tract of land in the town of Rye, Westchester county, on Captain's island, described as follows: Beginning at a marked rock, near a rock called Lightning rock, and running on the southern and eastern shore N. 75° 30' E., 63 links; thence N. 41° E. 3 chains 40 links; thence N. 84° 45' E., one chain 88 links; thence N. 89° E. 3 chains 80 links; thence N. 27° 45' E., 3 chains 53 links; thence N. 54° W., 71 links to a stone bound by the bank at high water mark; thence west, crossing the island to the pond where a stone bound is erected, at high water

mark thence running by the southeast side of the pond, S. 40° W., 75 links; thence S. 52° 15' W., one chain 92 links; thence N. 52° 45' W., 74 links; thence S. 13° 30' W., 2 chains 78 links; thence S. 49° W., 80 links, to a pine stump by the side of the pond; thence S. 19° W., one chain nine links, across a point of land to the place of beginning, but not to contain any part of the pond, acquired for the purpose of erecting and maintaining thereon a light-house and other necessary buildings.

9. **At Watervliet, Albany county.**—A tract of land in the town of Watervliet, Albany county, described as follows: Beginning at an elm tree standing on the west bank of the Hudson river, in the village of Gibbonsville, thence running, by the magnetic meridian in 1828, N. 68° W., 18 chains and seventeen links, to a stone in the ground marked U. S. No. 6; thence S. 22° W., 10 chains and 76 links, to a stone in the ground, marked U. S. No. 7; thence N. 68° W., 12 chains 81 links, to a stone in the ground, marked U. S. No. 2, at the south side of a new road called the Shaker road; thence along the said road S. 72° W., 4 chains and twenty-nine links, to a stone in the ground, marked U. S. No. 3, also on the south side of said road; thence S. 22° W., 6 chains and thirty-four links to a stone in the ground, marked U. S. No. 4; thence S. 68° E., 35 chains and eighty links, to the west shore of the Hudson river at low water mark; thence up the said stream, along low water mark, till the place of beginning bears N. 68° W., thence from the low water mark N. 68° W., to the place of beginning, together with all the land under water lying opposite and easterly of the described premises, which has been heretofore granted by letters patent to James Gibbons, by the people of the state of New York; the evidences of the several purchases of the land which is hereby ceded, being recorded in the office of the clerk of the county of Albany; but always excepting and reserving out of the lands above described, the land occupied by the Erie canal, one rod on each side thereof, and also the public highway, acquired for the purpose of erecting and maintaining thereon arsenals, magazines, dock-yards and other necessary buildings.

§ 29. **Authorization of acquisition and cession of jurisdiction thereupon, during use for purposes thereof, with reservation of right to serve process.**—The United States has been authorized to acquire the following tracts or parcels of land, and jurisdiction thereof has been ceded to the United States upon such acquisition on condition that the jurisdiction so ceded should not prevent the

execution thereon of any process, civil or criminal, issued under the authority of the state, except as such process might affect the property of the United States therein, and that such jurisdiction shall continue in the United States so long only as the land shall be used and occupied for the purposes of cession, unless the consent of the state to a different use has been granted.

1. **In the city of Brooklyn.**— A tract or tracts of land in and adjacent to the city of Brooklyn, described as follows: Commencing at the stone monument, No. 1, at the corner of Flushing avenue and the Williamsburgh road; thence S. $82^{\circ} 25'$ W. 599 $\frac{1}{4}$ feet to stone monument No. 2; thence N. $82^{\circ} 30'$ W., along Flushing avenue, 4,152 feet 6 $\frac{1}{2}$ inches to stone monument No. 3; thence N. $7^{\circ} 16'$ E., along Navy street 903 feet to the point J; thence N. $25^{\circ} 39'$ W. 479 $\frac{1}{4}$ feet to point K; thence N. $40^{\circ} 47'$ E. 1,357 $\frac{1}{4}$ feet to the point L; thence northeastwardly until it intersects the continuation of the Williamsburgh line at the point M, at the distance of 130 feet from the block; thence eastwardly by and with the said continuation of the Williamsburgh line to the center of the channel at the point N; thence along the center of the channel to the point O, at the intersection of the line A B, continued; thence S. $57^{\circ} 30'$ E. to the point A, equidistant between two piles, driven at low water mark; thence S. $57^{\circ} 30'$ E. 991 $\frac{1}{4}$ feet to the point B; thence S. 42° E. 1,025 feet to the point C; thence S. $35^{\circ} 30'$ E. 200 feet to the point D; thence S. 29° E. 271 $\frac{1}{4}$ feet to the point E; thence S. 4° E. 189 $\frac{1}{2}$ feet to the point F; thence S. $34^{\circ} 30'$ W. 93 feet to the point G, in the center of the Wallabout creek; thence along the center of said creek to the point H; thence S. 68° W. 244 feet to the point I; thence S. $0^{\circ} 55'$ E. 219 $\frac{1}{2}$ feet to the commencement, at the monument No. 1; provided, nevertheless, that the city of Brooklyn shall not be deprived of any vested rights in and over Vanderbilt and Clinton avenues, as now laid out and graded, or the rights of sewerage which the said city may now possess over the property laying between the Naval Hospital grounds and the easterly boundary of the present navy yard.

The free, common and unrestricted use and navigation of the waters and channels of the Wallabout bay, from the westerly line of Vanderbilt avenue in front thereof, and extending therefrom easterly and northerly to the East river, is hereby reserved to the people of this state; and the United States shall not in any way or manner injure, affect or obstruct the free and entire use and navigation of the said channel, or the landing places or wharves at the foot of, or

where Clinton and Vanderbilt avenues, or either of them, reach or may extend to the said channel. Such acquisition has been authorized for the purpose of a navy yard and naval hospital, according to the plan furnished by the naval department.

2. **On Staten Island.**— A tract of land on Staten Island, Richmond county, owned by William H. Aspinwall, lying mainly between the lands of the United States and New York avenue, for the purpose of building and maintaining forts, magazines, arsenals and other necessary structures.

3. **On Long Island.**— A tract or tracts of land on Long Island, Queens county, in a direction opposite Fort Schuyler, East river (and concurrent jurisdiction over all the shores, flats, and waters contiguous to such lands, within 400 feet from low water mark [measured toward the channel] and over the land lying between high and low water marks), for the purpose of building and maintaining forts, magazines, dock-yards, wharves and other necessary structures and appendages.

4. **On Long Island and Staten Island.**— A tract or tracts of land adjacent to Fort Hamilton, Kings county, and adjacent to Fort Tompkins in the town of Southfield, Staten Island, not exceeding 150 acres together with all the shores, flats and waters within 400 yards from low water mark, contiguous to such lands; for the purpose of erecting and maintaining thereon batteries, forts, magazines, wharves and other necessary structures with their appendages.

5. **In Hudson river.**— Certain tracts of land under water in the Hudson river, for the purpose of erecting light-houses, beacon lights, range lights, or other aids to navigation, and light-keepers' dwellings, and which the commissioners of the land office have been authorized to convey.

6. **At sundry places for light-house purposes.**— Certain tracts of land in or near the Hudson river, for the purpose of the construction and maintenance of light-houses and keepers' dwellings, as follows:

1. For a beacon light on the eastern shore of the river near the lower end of Fish House bar.

2. For a beacon light on a dike above Fish House bar.

3. For a beacon light on the southern part of an island near Round shore.

7. **At Danskamer point, near Orange county.**— A tract of land not exceeding one acre, situate at Danskamer point, on the western side of the Hudson river, at a point near the northern boundary of Orange county; and also a tract of land not exceeding 25 feet

square, situate at the Narrow channel, on the west side of the Hudson river, in Greene county, distant about three-fourths of a mile due north of the Four-Mile point light-house, for the purpose of establishing and maintaining light-houses, fog-signals or other aids to navigation.

8. **Near Tarrytown.**— A tract of land under water in the Hudson river, in the vicinity of Tarrytown point, for the purpose of erecting a beacon light thereon, when the site thereof shall have been selected and approved by the commissioners of the land office and a description thereof filed in the office of the secretary of state.

9. **Sister islands, St. Lawrence county.**— Certain tracts of land in St. Lawrence county, known and designated as the "Sister islands," being two islands situated near the most easterly point of Grenadier island, in Canada, for a site for a light-house and to be acquired by the United States before January 1, 1862.

10. **At Ogdensburgh, St. Lawrence county.**— A tract of land in Ogdensburgh, St. Lawrence county, described as follows: That part of block No. 45, which block is bounded by State, Green, Water and Knox streets, between Knox street and a line drawn across said block from State to Water street, parallel with Knox street, and distant therefrom 145 feet 7 inches, and being 117 feet and 7 inches on Knox street, and 145 feet and 7 inches on State street, for the purpose of a custom-house and post-office with court-rooms.

11. **At Hounsfield, Jefferson county.**— A tract of land known as Horse island, in the town of Hounsfield, Jefferson county, for the purpose of erecting and maintaining a light-house and other buildings connected therewith.

12. **Near outlet of Lake Champlain.**— A tract of land near the outlet of Lake Champlain for a site for a fort, and which the commissioners of the land office have been authorized to convey accordingly.

13. **Near mouth of Oswego river.**— A tract of land near the mouth of the Oswego river, Oswego county, known as the old fort, military and parade ground, for the purpose of re-establishing the military post, of rebuilding the fort, redoubts and barracks, of improving the parade grounds, and of the erection of a marine hospital, and which the commissioners of the land office have been authorized to convey accordingly. Any right, title or privilege granted by the United States to any railroad company to cross or occupy any portion of such lands, shall not be deemed a use contrary to the purposes of the cession thereof.

14. **In the city of Buffalo.**—A tract or tracts of land in the city of Buffalo, for the erection of forts, magazines, arsenals, dock-yards and other needful buildings deemed necessary for the protection and defense of such city.

15. **In Buffalo.**—A tract or tracts of land adjacent to, or in the vicinity of, the lands owned by the United States, and occupied on January 1, 1842, by the light-house in the city of Buffalo; for the purpose of erecting a fort, battery or other military works thereon, and which the commissioners of the land office have been authorized to convey accordingly.

16. **At Black Rock, Erie county.**—Certain tracts of land in the south village of Black Rock, between Lake street or Broadway and the easterly line of the Buffalo and Black Rock railroad, or north of block 133, and between the Erie canal and Black Rock harbor, or lands adjacent thereto, reserving a free and uninterrupted use and control in the canal commissioners of all that may be necessary for canal and harbor purposes; for the purpose of erecting and establishing a fort, battery, barracks, parade ground or military post, and which the commissioners of the land office have been authorized to convey accordingly.

17. **At Black Rock and Buffalo.**—A tract of land in the south village of Black Rock, Erie county, described as follows: Beginning at the northeast corner of Connecticut street and the Buffalo and Black Rock railroad, thence first in a northwesterly and next in a northerly direction along the easterly side of said railroad, to a short street leading from said railroad to Massachusetts street; thence along the south side of said short street to Broadway; thence along the west side of Broadway to Fifth street; thence along the southwest side of Fifth street to Rhode Island street; thence along the southeast side of Rhode Island street to Broadway; thence along the west side of Broadway to Fourth street; thence along the southwest side of Fourth street to Connecticut street; thence along the northwest side of Connecticut street to the place of beginning; or so much thereof as may be required by the United States of America, and necessary for the purpose of erecting and establishing a fort, battery, barracks, parade ground or military post; provided always that this state shall have the right to quarry, carry off, and use, for public purposes the stone on the southwest side of the reserve, called the "Military square," and of the reserve immediately north thereof, until the bank shall have been penetrated by such quarrying to within 50 feet of the southwest side of Fourth street; the United States of

America being allowed to quarry, carry off, and use so much stone in said quarry as may be deemed necessary for the construction of the contemplated defenses, together with all the buildings and other erections that may be connected therewith, and which the commissioners of the land office have been authorized to convey accordingly, and also all lands acquired by the United States prior to February 9, 1844, under any law authorizing proceedings in the nature of a writ *ad quod damnum*, or by purchase of lands in the city of Buffalo and village of Black Rock, and all those streets, lanes and alleys between blocks Nos. 186, 167 and 168 in said village, and between such blocks and the premises above in this subdivision described.

§ 30. **Authorization of acquisition and cession of jurisdiction thereupon with reservations of concurrent jurisdiction and right to serve process.**—The United States has been authorized to acquire the following tracts or parcels of land, and jurisdiction thereof has been ceded to the United States upon such acquisition, on condition that the state of New York should retain a concurrent jurisdiction with the United States over such tracts of land in the execution of civil process in all cases, and of such criminal process as might be issued under the authority of the state of New York against any person charged with crime committed within or without such tracts of land, and that the jurisdiction of the United States shall continue so long only as the lands shall be used for the purposes of cession.

1. **At Watervliet, Albany county.**—A tract of land in the town of Watervliet, Albany county, described as follows : Beginning at a stone set in the ground, marked U. S. No. 2, standing at the south side of the Shaker road, and running thence from the said stone along the said road N. 72° E., 16 chains and 24 links, to a stone in the ground, marked U. S. No. 6 ; thence S. 22° W., 10 chains 76 links, to a stone in the ground, marked U. S. No. 7, thence N. 68° W., 12 chains 81 links, to the place of beginning, containing 6 acres and .89 of an acre. Also over all that other certain tract, piece or parcel of land situate, lying in and being in the town of Watervliet, in the county of Albany, aforesaid, bounded as follows, to wit : Beginning at a stone set in the ground, marked U. S. No. 4, and running thence N. 22° E., 6 chains and 34 links, to a stone in the ground, marked U. S. No. 3, standing at the south side of the Shaker road ; thence S. 72° W., 16 chains and 24 links, to a stake (a stone in the ground marked U. S. No. 8), on the north side of the old Schenectady road ; thence along the said road southeasterly 22 chains and

59 links, to the westerly corner of the burial ground; then along the outside thereof N. $57^{\circ} 45'$ E., 3 chains and 29 links, to the most northerly corner of the said burial ground; thence S. $32^{\circ} 15'$ E., 3 chains and 29 links, to the most easterly corner of the said burying ground; thence S. 69° E., 1 chain 44 links, to a stake (a stone in the ground marked U. S. No. 9); thence S. $79^{\circ} 15'$ E., 12 chains 80 links, to a stone in the ground marked U. S. No. 10, on the west side of the Erie canal; thence along the canal N. 10° E., 9 chains and 93 links, to the south line of the land belonging to the people of the United States (designated by a stone in the ground, marked U. S. No. 11); thence along the said line N. 68° W. 24 chains 50 links, to the place of beginning, containing 38 acres and $\frac{1}{10}$ of an acre; but always excepting and reserving out of the lands above described one rod in width along the west side of the Erie canal, for the purpose of erecting and maintaining thereon arsenals, magazines and other necessary buildings.

2. **At Watervliet, Albany county.**—A tract of land in the village of West Troy, town of Watervliet, Albany county, described as follows: Commencing at a point on the east bank of the Erie canal at the southwest corner of the United States arsenal grounds, and extending thence easterly along the said arsenal grounds to River street; thence southerly along the west line of said River street thirty feet; thence westerly on a line parallel with the said north line, to the west side of the alley next west of said River street; thence southerly along the west side of said alley to a point distant from the said north boundary line 293 feet and 6 inches; thence westerly on a line parallel with the said north boundary line, about 258 feet to the east bank of the Erie canal; thence northerly along the said east bank of said canal 300 feet, to the place of beginning, for the purpose of erecting and maintaining thereon arsenals, magazines and other necessary buildings, and of using the grounds in connection with the arsenal buildings already erected prior to the acquisition thereof.

3. **In the city of Buffalo.**—A tract of land in the city of Buffalo, described as follows: Beginning at a point in the southerly margin of the Big Buffalo creek, at the southeast corner of lot No. 50 in the city of Buffalo, thence S. 45° and $30''$ W., 1,000 feet to Lake Erie; thence at right angles northerly and along the shore of Lake Erie, 200 feet; thence northerly on a line 200 feet from and parallel to the first mentioned line, 1,000 feet to the southerly margin of the Big Buffalo creek; and thence southerly at right angles and along

the margin of said creek, 200 feet to the place of beginning; together with such other lands adjoining thereto, and in connection therewith and the waters of Lake Erie as shall be necessary for the purpose of excavating and maintaining a canal or channel to be used as a public highway, and connecting Lake Erie with said creek, and for the purpose of erecting and maintaining the necessary piers to protect the said canal or channel and a light-house at or near the mouth thereof.

4. In the city of Buffalo.—A tract or tracts of land situate in the city of Buffalo, and the town of Black Rock, Erie county; for the purpose of erecting and maintaining a sea wall connecting with the pier on the south side of the Big Buffalo creek, belonging to the United States on January 1, 1850, and extending southerly therefrom along the shore of Lake Erie to the northerly side of the canal or channel connecting Lake Erie with Big Buffalo creek, and from the southerly side of such channel to Four Mile point.

§ 31. Cession during ownership by the United States and use for purposes thereof, with sundry reservations.— Title and jurisdiction to the following tracts or parcels of land has been ceded to the United States upon condition that the jurisdiction so ceded should not prevent the execution on such tracts or parcels of any process, civil or criminal, issued under the authority of this state; nor the operation within the same of the laws of this state, or the ordinances of the common council of the city of New York, for the general regulation of the civil police of such city, passed before the date of the deed of cession, and not incompatible with the purpose for which such cession was made; and that the United States shall retain such use and jurisdiction so long only as such tracts shall be used for the defense and safety of the city of New York:

1. In the city of New York.—A tract of land and land under water, in the city of New York, described in a deed dated May 6, 1808, as follows: "Beginning in the Hudson river at a point in the continuation of the south line of Hubert street, bearing N. 79° 30' W., from the southeasterly corner of Hubert and West streets, distant 200 feet westerly from the permanent line of West street, which said permanent line bears S. 10° 15' W., from the south-westerly corner of the state prison wall; thence N. 10° 15' E., parallel to the said permanent line, 305 feet, to a point in the continuation of the north line of Laight street; thence N. 79° 30' W., 300 feet into the Hudson river; thence S. 10° 15' W., 305 feet to a

point in the continuation of the south line of Hubert street aforesaid; thence S. $79^{\circ} 30'$ E., 300 feet, to the place of beginning," acquired for the defense and safety of the city of New York.

2. **In the city of New York.**—A tract of land or land under water in the city of New York, described in a deed dated May 6, 1808, as follows: "Beginning at a point in the line of the present battery, six feet southerly of the most southern external angle formed by the main battery and the present bastion, which said point is 497 feet 11 inches on a course S. $36^{\circ} 20'$ W., from the southeasterly corner of the brick house situate at the corner of Marketfield street and Broadway, now or lately belonging to Robert Kennedy, and is also on a course S. $89^{\circ} 10'$ W., $26\frac{1}{2}$ feet 1 inch from the northwesterly corner of Bridge and State streets; thence N. $16^{\circ} 10'$ W., 310 feet; thence S. 64° W., 500 feet; thence S. 26° E., 300 feet; thence N. 64° E., 425 feet, to the place of beginning; all of which courses are to be run as the magnetic needle pointed on May 6, 1808," acquired for the defense and safety of the city of New York.

3. **In East river.**—A tract of land under water in East river at the Wallabout bay, and adjoining the navy yard of the United States, described in a deed dated April 3, 1810, as follows: "Beginning at the southerly end of the dam of the pond at the navy yard, at a point designated on the map or chart comprising a delineation of the said parcel of land hereunto annexed, by the letter A, from which point the easterly corner of the commander's house at the navy yard bears N. $29^{\circ} 45'$ W., the steeple of the Reformed Dutch Church at Brooklyn bears S. 62° W., and the south corner of the dwelling-house of Jeremiah Johnson bears N. $80^{\circ} 25'$ E., and running from the said point designated as aforesaid by the letter A, N. $52^{\circ} 30'$ E., 2,290 feet to a point from which the north corner of the dwelling-house of the said Jeremiah Johnson bears S. $70^{\circ} 30'$ E., designated by the letter B, in the said map or chart, and running from the said last-mentioned point N. 7° E., 1,580 feet, to a point from which the southwest corner of Thompson's house on the Long Island shore bears N. $76^{\circ} 45'$ E., the steeple of the Reformed Dutch Church in Brooklyn bears S. $48^{\circ} 25'$ W., and the steeple of St. Paul's Church in the city of New York bears N. 79° W., and designated in the said map or chart by the letter C; and running from the said last-mentioned point S. 70° W., 2,480 feet to the north corner of the navy yard, designated in the said map or chart by the letter D; and thence southerly along the navy yard to the place of beginning; all which courses and bearings are taken as

the magnetic needle pointed on April 3, 1810," acquired for the defense and safety of the city of New York.

The free and common use of the waters not appropriated by the United States for wharves or fortifications to the eastward of the navy yard of the United States, and the westward of the east boundary line of the land above described, is reserved to the people of this state.

§ 32. Cession during use for purposes thereof, with sundry reservations.—Title and jurisdiction to the following tract or parcel of land has been ceded to the United States by this state upon condition that the jurisdiction so ceded should not prevent the execution on such tract of any process, civil or criminal, issued under the authority of this state, nor prevent the laws of the state, not incompatible with the purposes for which such cession is made, from operating within the bounds of such tract; and that the United States are to retain such jurisdiction so long only as such tract shall be used for the defense and safety of the city of New York:

1. **At New Utrecht.**—A tract of land in the town of New Utrecht, Kings county, on the easterly side of the Narrows, at the entrance into the bay of New York, and upon a reef called Hendrick's reef, described as follows: Beginning at the northerly corner thereof, by land of Denyse D. Denyse, at high water mark, and near the southeasterly side of a large rock, and running from thence S. 24° 30' E., 7 chains and 17 links along said high water mark to the land of Jaques Cortelyou; thence S. 64° 45' W., 24 chains to the southerly corner of the hereby granted premises; thence N. 25° 15' W., 7 chains and 17 links; thence N. 10° 30' W., 11 chains and 70 links, to the westerly corner of the hereby granted premises; thence S. 86° E., 24 chains to the place of beginning, containing 30 acres, 2 roods and 4 perches; all which courses and bearings are taken as the magnetic needle pointed November 6, 1812, acquired for the defense and safety of the city of New York.

The free and common passage over the waters aforesaid about the said tract, not actually appropriated by the United States for wharves, bridges, fortifications or public obstructions, is reserved to the people of this state.

§ 33. Cession with sundry reservations.—Title and jurisdiction to the following described tract or parcel of land has been ceded to the United States by this state upon condition that the jurisdiction so ceded should not prevent the execution on such tract or parcel of : ny process, civil or criminal, issuing under the authority of

this state, nor the operation of the public laws of this state upon such tract, so far as the same might not be incompatible with the free use and enjoyment of the premises by the United States, for the purpose of the erection of magazines, arsenals, barracks and other needful buildings.

A tract of land in the town of Greenbush in the manor of Rensselaerwick, county of Rensselaer and state of New York, which was leased by Stephen Van Rensselaer to Christopher Yates on the 16th day of August, 1790, bounded and described as follows: "Beginning at a stake and stones standing at the distance of 12 chains and 45 links from the southwest corner of the kitchen on the premises, on a course N. 49° 30' W., and running thence N. 49° 30' W., 1 chain and 6 links; thence N. 59° 45' W., 6 chains and 78 links; thence N. 29° E., 3 chains and 73 links; thence N. 16° E., 9 chains and 24 links; thence S. 60° E., 7 chains and 20 links; thence S. 34° E., 1 chain; thence S. 50° E., 2 chains; thence N. 15° E., 29 chains; thence S. 39° E., 38 chains and 12 links; thence due East 10 chains; thence S. 11° 30' E., 48 chains and 80 links; thence due W. 32 chains and 20 links; thence due N. 10 chains; thence N. 26° W., 5 chains 53 links; thence S. 37°, 6 chains and 47 links; thence N. 18° W., 2 chains and 27 links; thence N. 10° W., 3 chains and 71 links; thence N. 2° W., 3 chains and 58 links; thence N. 70° E., 1 chain and 18 links; thence N. 18° W., 4 chains and 87 links; thence N. 77° 40' W., 2 chains and 97 links; thence S. 15° 40' W., 12 chains and 31 links; thence S. 9° E., 8 chains and 34 links; thence S. 57° E., 2 chains and 44 links; thence S. 17° W., 9 chains; thence N. 68° W., 22 chains and 30 links; thence due S. 4 chains and 40 links; thence N. 60° E., 6 chains; thence N. 29° W., 6 chains and 20 links; thence N. 13° W., 3 chains; thence S. 68° E., 5 chains and 21 links; thence S. 32° 18' E., 6 chains and 40 links; thence S. 3° 42' W., 1 chain 80 links; thence S. 89° 48' E., 4 chains 30 links; thence N. 3° 42' E., 9 chains and 90 links; thence S. 86° 18' E., 6 chains and 20 links; thence N. 8° 42' E., 14 chains and 50 links; thence N. 86° 18' W., 6 chains and 20 links; thence S. 3° 42' W., 3 chains and 80 links; thence N. 42° 18' W., 10 chains and 80 links, to the beginning, containing 261 acres and .3 of an acre;" acquired for the purpose of erecting magazines, arsenals, barracks and other needful buildings.

§ 34. **Cession during use for purposes thereto with sundry reservations.**—Title and jurisdiction of the following described tracts or parcels of land has been ceded to the United States by this

state on condition that the jurisdiction so ceded should not prevent the execution on such tracts of any process, civil or criminal, issued under the authority of this state, nor prevent the laws of this state, not incompatible with the purposes for which such cession was made from operating within the bonds* of such tracts, and that the jurisdiction of the United States shall continue so long only as such tracts shall be applied to the use of providing for the defense and safety of this state:

Three separate tracts of land in the county of Oneida, the county of Albany and the county of Clinton, the first of which is described as follows: "All that certain piece or parcel of land situate in the village of Rome, county of Oneida, and state of New York, on which the arsenal, armory and other buildings belonging to the United States, are erected, distinguished as lots Nos. 4, 5, 6, 13, 14 and 15, in block No. 6 of said village, lying contiguous and forming one entire lot, and is bounded as follows, to wit: Beginning at the northwesterly corner of lot No. 7, in said block No. 6, and running thence westerly on the line of Dominick street, N. 36° 20' W., in 1796, 198 feet, to the northeasterly corner of lot No. 3 in said block No. 6; thence at right angles with Dominick street, southerly, 432 feet, to the south bank of the canal connecting Wood creek with the Mohawk river; thence easterly on the north bank of said canal to the southwesterly corner of lot No. 12 in said block No. 6, 216 feet; thence running northerly at right angles with Dominick street to the place of beginning, 340 feet. Also, lot No. 5 in block No. 7 bounded as follows, to wit: Beginning at the southwesterly corner of lot No. 6 in block No. 7, and running thence westerly on the line of Dominick street, 66 feet to the southeasterly corner of lot No. 4, in said block No. 7; thence northerly at right angles with Dominick street, 200 feet, to the southerly line of Stone alley; from thence easterly on the southerly line of Stone alley, and parallel to Dominick street, 66 feet; from thence at right angles with Dominick street, 200 feet, to the place of beginning." The second of said tracts is described as follows: "And also all that certain piece or parcel of land situate in the town of Watervliet, in the county of Albany, and state aforesaid, at the place called Gibbonsville, on which is also erected an arsenal and other buildings belonging to the United States bounded as follows, to wit: Beginning at an elm tree standing on the bank of Hudson's river in the village of Gibbonsville, thence running by the true meridian (the variation of the magnetic needle being calculated at 5° 30' to the west of north), north 75½° W., 11 chains and

* So in the original.

35 links; thence S. $14\frac{1}{2}^{\circ}$ W., 3 chains and 86 links; thence N. $75\frac{1}{2}^{\circ}$ W., 7 chains and 75 links; thence S. $14\frac{1}{2}^{\circ}$ W., 3 chains; thence S. $75\frac{1}{2}^{\circ}$ E., 7 chains and 75 links; thence S. $14\frac{1}{2}^{\circ}$ W., 3 chains and 71 links; thence S. $75\frac{1}{2}^{\circ}$ E., 11 chains and 35 links, to the bank of Hudson's river; thence S. $75\frac{1}{2}^{\circ}$ E., to the main channel of the said river; thence northerly along said channel to intersect a line drawn S. $75\frac{1}{2}^{\circ}$ E. from the first station; and then N. $75\frac{1}{2}^{\circ}$ W. to the place of beginning." The third of such tracts is described as follows: Lots No. 61, 62, 63, 64, 65 and 66 of the 80 acre lots in the tract granted to the Canadian and Nova Scotia refugees, containing in the whole 480 acres, and also over a tract of 9 acres 3 roods and 5 poles, being the east end or front of lot No. 60 in the same tract; which tracts are situated at Rouse's Point in the county of Clinton, on the west bank of Lake Champlain; acquired for the defense and safety of the state.

§ 35. Cession of jurisdiction to lands acquired for light-house purposes.—The jurisdiction to such tracts of land, not exceeding ten acres, acquired by the United States for the construction and maintenance of light-houses and keepers' dwellings before April 18, 1861, or as shall have been acquired since such date, or as shall be hereafter acquired, upon the selection by an authorized officer of the United States, the approval of the governor, the filing in the office of the secretary of state of a description of the boundaries thereof, with the approval of the governor indorsed thereon, and the filing and recording in such office of a map thereof, is ceded to the United States, upon condition that the jurisdiction so ceded shall not prevent the execution thereon of any process, civil or criminal, issued under the authority of the state, except as such process might affect the property of the United States therein, and that such process* shall continue in the United States so long only as the land shall be used and occupied for the purposes of the cession, unless the consent of the state to a different use shall have been granted.

§ 36. Acquisition by condemnation.—When the United States shall have been authorized by law to acquire title to any real property within this state, such title may be acquired by gift or grant from the owners thereof, or by condemnation if, for any reason, the United States is unable to agree with the owners for the purchase thereof.

§ 37. Saving clause.—The adoption of this article shall not be construed to cede to the United States any territory or jurisdiction over any territory not so ceded by the laws repealed by the revision

* So in the original.

of the general laws of the state of which this article is a part, or to change the terms or conditions upon which such cessions were originally made

ARTICLE III.

ARMS AND GREAT SEAL OF STATE.

SECTION 40. Description of the arms of the state.

41. Painted devices of arms in certain public places.

42. Prohibition of other pictorial devices.

43. Great seal of the state.

44. The use of the great seal.

45. Laws repealed.

46. When to take effect.

§ 40. Description of the arms of the state.—The device of arms of this state as adopted March 16, 1778, is hereby declared to be correctly described as follows:

Charge. Azure, in a landscape, the sun in fess, rising in splendor, or behind a range of three mountains, the middle one the highest, in base, a ship and sloop under sail, passing and about to meet on a river, bordered below by a grassy shore fringed with shrubs, all proper.

Crest. On a wreath, azure and or, an American eagle, proper rising to the dexter, from a two-thirds of a globe terrestrial showing the North Atlantic ocean with outlines of its shores.

Supporters. On a quasi compartment formed by the extension of the scroll.

Dexter. The figure of Liberty proper, her hair disheveled and decorated with pearls, vested azure, sandaled gules, about the waist a cincture or, fringed gules, a mantle of the last depending from the shoulders behind to the feet, in the dexter hand a staff ensigned with a Phrygian cap or, the sinister arm embowed, the hand supporting the shield at the dexter chief point, a royal crown by her sinister foot dejected.

Sinister. The figure of Justice proper, her hair disheveled and decorated with pearls, vested or, sandaled, cinctured and mantled as Liberty, bound about the eyes with a fillet proper, in the dexter hand, a straight sword hilted or, erect, resting on the sinister chief point of the shield, the sinister arm embowed, holding before her her scales proper.

Motto. On a scroll below the shield argent, in sable, Excelsior.

§ 41. Painted devices of arms in certain public places.—The device of arms of the state, corresponding to the blazon herein—

before given, shall be painted in colors upon wood or canvass, and hung upon the walls of the executive chamber, the court of appeals, the office of the secretary of state and the senate and assembly chambers.

§ 42. **Prohibition of other pictorial devices.**—No pictorial devices other than the arms of the state shall be used in the public offices at the capitol for letter headings and envelopes used for official business. Persons printing and circulating public documents under the authority of the state, when they use a vignette, shall place upon the title pages of the documents the standard device of the state arms without alterations or additions.

§ 43. **Great seal of the state.**—The secretary of state shall cause to be engraved upon metal two and one-half inches in diameter the device of arms of this state, accurately conformed to the description thereof given in this article, surrounded with the legend, "The great seal of the state of New York." It alone shall be used as the great seal of the state, and the secretary of state shall have the custody thereof.

§ 44. **The use of the great seal.**—All such matters as have issued under the great seal of the state since March 16, 1778, shall continue to be issued under such seal, except copies of papers and records certified by the secretary of state or his deputy and authenticated under his seal of office.

§ 45. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed. Such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed.

§ 46. **When to take effect.**—This chapter shall take effect on October 1, 1892.

SCHEDULE OF LAWS REPEALED.

Revised Statutes...Part I, Chapter 1.....All.		
LAWS OF	Chapter	Sections
1830.....	332.....	All.
1831.....	289.....	All.
1833.....	96.....	All.
1833.....	181.....	All.
1834.....	8.....	All.
1836.....	19.....	All.
1839.....	29.....	All.
1839.....	232.....	All.

LAWS OF	Chapter	Sections
1840.....	155.....	All.
1842.....	57.....	All.
1842.....	316.....	All.
1844.....	21.....	All.
1846.....	25.....	All.
1847.....	153.....	All.
1847.....	196.....	All.
1849.....	288.....	All.
1849.....	390.....	All.
1850.....	222.....	All.
1852.....	32.....	All.
1853.....	355.....	All.
1853.....	480.....	All.
1853.....	586.....	All.
1854.....	1.....	All.
1854.....	17.....	All.
1854.....	181.....	All.
1854.....	292.....	All.
1855.....	5.....	All.
1855.....	7.....	All.
1855.....	19.....	All.
1855.....	115.....	All.
1855.....	201.....	All.
1855.....	218.....	All.
1855.....	399.....	All.
1857.....	19.....	All.
1857.....	39.....	All.
1857.....	604.....	All.
1857.....	762.....	All.
1859.....	337.....	All.
1860.....	506.....	All.
1860.....	689.....	All.
1861.....	118.....	All.
1861.....	223.....	All.
1861.....	313.....	All.
1862.....	12.....	All.
1862.....	253.....	All.
1865.....	523.....	All.
1865.....	689.....	All.
1866.....	154.....	All.
1866.....	862.....	All.
1867.....	186.....	All.
1867.....	675.....	All.
1867.....	720.....	All.
1868.....	257.....	All.
1869.....	649.....	All.
1870.....	70.....	All.
1871.....	326.....	All.

LAWS OF	Chapter	Sections
1871.....	580.....	All.
1872.....	111.....	All.
1872.....	369.....	All.
1872.....	533.....	All.
1873.....	195.....	All.
1873.....	320.....	All.
1873.....	584.....	All.
1874.....	49.....	All.
1874.....	432.....	All.
1875.....	114.....	All.
1875.....	359.....	All.
1875.....	424.....	All.
1875.....	502.....	All.
1876.....	410.....	All.
1878.....	216.....	All.
1878.....	370.....	All.
1879.....	33.....	All.
1879.....	93.....	All.
1879.....	166.....	All.
1879.....	206.....	All.
1879.....	425.....	All.
1880.....	15.....	All.
1880.....	69.....	All.
1880.....	196.....	All.
1880.....	213.....	All.
1880.....	340.....	All.
1880.....	559.....	All.
1881.....	239.....	All.
1882.....	109.....	All.
1882.....	245.....	All.
1883.....	108.....	All.
1883.....	128.....	All.
1883.....	223.....	All.
1883.....	280.....	All.
1883.....	385.....	All.
1883.....	499.....	All.
1884.....	11.....	All.
1884.....	75.....	All.
1884.....	273.....	All.
1884.....	351.....	All.
1885.....	96.....	All.
1885.....	115.....	All.
1886.....	46.....	All.
1886.....	47.....	All.
1886.....	93.....	All.
1886.....	414.....	All.
1886.....	449.....	All.
1886.....	560.....	All.

LAWS OF	Chapter	Sections
1836.....	610.....	All.
1887.....	69.....	All.
1887.....	91.....	All.
1887.....	92.....	All.
1888.....	159.....	All.
1888.....	300.....	All.
1888.....	357.....	All.
1889.....	212.....	All.
1889.....	268.....	All.
1889.....	445.....	All.
1889.....	129.....	All.
1889.....	336.....	All.
1890.....	18.....	All.
1891.....	103.....	All.
1891.....	183.....	All.

CHAP. 22.

AN ACT giving the consent of the state of New York to the purchase by the United States, of land in the city of New York for the purpose of a new custom house.

APPROVED by the Governor February 4, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The consent of the state of New York is hereby given to the purchase by the United States, of the block of land in the city of New York, bounded by Bowling Green, Whitehall, Bridge and State streets, for a site for a custom house.

§ 2. The jurisdiction of the state of New York in and over said land is hereby ceded to the United States, subject to the restrictions hereinafter mentioned.

§ 3. The said consent is given and the said jurisdiction is ceded upon the express condition, that the state of New York shall retain a concurrent jurisdiction with the United States in and over the said land, so far as that all civil or criminal process which may issue under the laws or authority of said state may be executed therein, in the same manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States.

§ 4. The jurisdiction hereby ceded shall not vest in any respect to said land until the United States shall have acquired the title thereto, by purchase or otherwise.

§ 5. The said land acquired under the provisions of this act, shall be and continue forever thereafter exempted and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state; but the jurisdiction hereby ceded, and the exemption from taxation hereby granted, shall continue in respect to said land so long as the same shall remain the property of the United States, and be used for public purposes, and no longer.

§ 6. This act shall take effect immediately.

CHAP. 98.

AN ACT ceding jurisdiction to the United States of America over a certain piece of land under water in New York bay.

APPROVED by the Governor March 8, 1898. Passed, by a two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Jurisdiction is hereby granted by the state to the United States of America, over the following described piece of land under water for the purpose of establishing thereon lights or other aids to navigation on Old Orchard shoal; a tract of land under water enclosed by a circle of two hundred feet in diameter, the center of which shall be located as follows: the angle included between the ranges to Romer light and Sandy Hook light shall be thirty-five degrees and four minutes, the angle between the ranges to Sandy Hook light and Waackaack beacon shall be seventy-nine degrees and two minutes. Said jurisdiction is ceded upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States in and over said land or lands so far that civil process in all cases and such criminal and other process as may issue under the laws or authority of the state of New York against any person or persons charged with crimes or misdemeanors, committed within said state may be executed therein in the same way and manner as if such jurisdiction had not been given or jurisdiction ceded except so far as such process may affect the real or personal property of the United States.

§ 2. This act shall take effect immediately.

CHAP. 159.

AN ACT providing for the sale of a certain piece of land belonging to the state of New York.

APPROVED by the Governor March 21, 1898. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The commissioners of the land office are hereby authorized and empowered to sell and convey for the consideration to be determined by them, the following described premises, namely: All that certain piece or parcel of land belonging to the people of this state, situated in the village of Sing Sing, county of Westchester and bounded as follows, namely: Beginning on the westerly side of Spring street adjoining lands of Henry Marks; thence running southerly along said Spring street one hundred and fifty-six feet to the lands of said Henry Marks; thence running westerly along the land of said Henry Marks two hundred and ninety feet to lands belonging to the people of the state of New York; thence running northerly along the lands of the people of the state of New York one hundred and fifty-six feet to the lands of said Henry Marks; thence running easterly along the lands of said Henry Marks two hundred and ninety feet to the place of beginning, containing all the lands in said boundaries.

§ 2. The moneys arising from the sale of said lands shall be deposited with the state treasurer.

§ 3. This act shall take effect immediately.

CHAP. 261.

AN ACT to enable the United States to acquire the right of water supply for Madison barracks, and to cede the jurisdiction of the state of New York over such franchise to the United States.

APPROVED by the Governor April 8, 1898. Passed, by a two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Consent is hereby given to the government of the United States of America to purchase and acquire the right of way in the village of Sacketts Harbor or town of Hounsfield, county of Jefferson, to carry water through pipes from the waters of Lake Ontario and Henderson bay to Madison barracks, for the water supply at that point of the military post of the United States, and to acquire the title of

lands necessary for that purpose, or the right of way only. And the state of New York hereby cedes to the United States the right to lay such pipes under and along the highways of said state, provided the same are restored to as good condition as the same were in before such pipes were laid, and to enter upon said highway and keep the said pipes in repair, upon the same condition, and hereby concedes jurisdiction to the said United States over the lands and franchises which the United States has acquired for the purpose of such water supply, or may acquire pursuant to this act.

§ 2. In case the United States cannot agree for the purchase thereof with the owners of such lands and franchises as it may need for the purposes aforesaid, the secretary of war of the United States, or such officer as he may appoint for that purpose, or any officer of the United States authorized by the government of the United States so to do, may proceed to obtain the said lands and franchises according to the condemnation law of this state.

§ 3. This act shall take effect immediately.

CHAP. 234.

AN ACT to amend chapter two hundred and thirteen of the laws of eighteen hundred and ninety-two, entitled "An act providing for the sale of a certain piece of land belonging to the state of New York," to correct the description thereof.

BECAME a law, April 2, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section one of chapter two hundred and thirteen of the laws of eighteen hundred and ninety-two, entitled "An act providing for the sale of a certain piece of land belonging to the state of New York," is hereby amended to read as follows:

§ 1. The commissioners of the land office are authorized and empowered to sell and convey for the consideration to be fixed by the commissioners of the land office, all that certain piece of land belonging to the people of this state, situated in the village of Sing Sing, county of Westchester and state of New York, and bounded as follows: Beginning on the westerly side of Hunter street, adjoining the land of William H. Barlow; thence southerly along Hunter street two hundred and sixty-five feet; thence westerly parallel with the southerly line of William H. Barlow's land, about three hundred and fifty-five feet to the Hudson river; thence northerly along the Hudson river to the land of William H. Barlow; thence easterly along said Barlow's land about two hundred and sixty-seven feet and seven inches to the place of beginning, containing about two acres, excepting, however, from the above described premises so much thereof as has been heretofore required by the New York Central and Hudson River railroad.

§ 2. This act shall take effect immediately.

INDEX.

Acquisition by condemnation, § 36.

Authorization of acquisition, and cession of jurisdiction thereupon during ownership by the United States, with reservation of right to serve process, § 25.

at Mt. McGregor, Saratoga county, subd. 27.

at New Brighton, Richmond county, subd. 16.

at New Lots, Queens county, subd. 24.

at sundry places for fortifications, subd. 1.

in city of Albany, subd. 11.

in city of Auburn, subd. 21.

in city of Binghamton, subd. 23.

in city of Buffalo, subds. 2, 3.

in city of Hudson, subd. 22.

in city of Newburgh, subd. 25.

in city of New York, subds. 13, 14, 15.

in city of Oswego, subd. 7.

in city of Poughkeepsie, subd. 19.

in city of Rochester, subd. 18.

in city of Troy, subd. 20.

in city of Utica, subds. 10, 12.

in city of Watertown, subd. 26.

in Sackett's Harbor, subd. 4.

in town of Plattsburgh, subd. 9.

in village of Plattsburgh, subd. 8.

islands in the St. Lawrence river, subd. 5.

North Dumplin Island, subd. 6.

Authorization of acquisition and cession of jurisdiction thereupon, without reservation, § 21.

Calver's Plat, Columbia and Rensselaer counties, subd. 3.

Long Island coast, subd. 1.

near Mull's Flat, Rensselaer county, subd. 4.

Poplar Island, Rensselaer county, subd. 5.

Priming Hook, Columbia county, subd. 2.

water supply at West Point, subd. 6.

INDEX.

- Authorization of acquisition and cession of jurisdiction thereupon
during use for purposes thereof, with reservation of right to
serve process, § 29.
- at Black Rock, Erie county, subds. 16, 17.
 - at Danskamer Point, near Orange county, subd. 7
 - at Hounsfield, Jefferson county, subd. 11.
 - at Ogdensburgh, St. Lawrence county, subd. 10.
 - at sundry places for light-house purposes, subd. 6.
 - in Buffalo, subd. 15.
 - in city of Brooklyn, subd. 1.
 - in city of Buffalo, subd. 14.
 - in Hudson river, subd. 5.
 - near mouth of Oswego river, subd. 13.
 - near outlet of Lake Champlain, subd. 12.
 - near Tarrytown, subd. 8.
 - on Long Island, subds. 3, 4.
 - on Staten Island, subds. 2, 4.
 - Sister Islands, St. Lawrence county, subd. 9.
- Authorization of acquisition and cession of jurisdiction thereupon,
with reservations of concurrent jurisdiction and right to serve
process, § 30.
- at Watervliet, Albany county, subds. 1, 2.
 - in city of Buffalo, subds. 3, 4.
- Authorization of acquisition and cession of jurisdiction thereupon,
with reservation of right to serve process, § 23.
- at Black Rock, Erie county, subd. 3.
 - at Bluff Point, Staten Island, subd. 1.
 - at Oswego, subds. 6, 7.
 - at sundry places for light-house purposes, subd. 4.
 - on Staten Island,
 - Barber's Point, Lake Champlain,
 - between Athens and Catskill,
 - Bluff Point, Lake Champlain,
 - Campbell's Island, near Castleton,
 - Carlton Head, St. Lawrence river,
 - Crown Point, Lake Champlain,
 - Cumberland Head, Clinton county,
 - Fair Haven, Cayuga county,
 - Fisher's Island, Long Island Sound,
 - Great West Bay, Suffolk county,
 - Hart Island, Long Island Sound,
 - Horton's Point, Suffolk county,
 - Island at mouth of Schodack channel,

**Authorization of acquisition and cession of jurisdiction thereupon,
with reservation of right to serve process, § 23.**

at sundry places for light-house purposes, subd. 4.

- Island east of Barren Island,
- Island opposite and east of Coeymans' Bar,
- Isle AuMotte, Lake Champlain,
- Little Island near New Baltimore,
- Livingston Creek,
- Lloyd's Harbor, Suffolk county,
- North Brother Island, East river,
- North fork of Long Island,
- Old Orchard Creek, Orleans county,
- Persey's Reach,
- Point AuRoche, Lake Champlain,
- Priming Hook Point, north of Hudson city,
- Race Point, Suffolk county,
- Somerset, Niagara county,
- Tarrytown, Westchester county,
- Whitehall, Lake Champlain,
- Windmill Point, Lake Champlain.
- at Suspension Bridge, subd. 5.**
- at Spnyten Duyvil, subd. 13.**
- at West Point, Orange county, subd. 8.**
- at Whitehall Narrows, Lake Champlain, subd. 10.**
- at Whitestone Point, Queens county, subd. 11.**
- in city of New York, subd. 14.**
- on Riker's Island, East river, subd. 12.**
- on Staten Island, subd. 2.**
- Round Pond, Orange county, subd. 9.**

**Authorization of acquisition by the United States, and cession of
jurisdiction thereupon during ownership by the United States
and use for public purposes, with reservation of right to serve
process, § 27.**

- at Coney Island, Kings county, subd. 9.**
- at Hallett's Point, Queens county, subd. 8.**
- at Staten Island, Richmond county, subd. 10.**
- in city of Brooklyn, subds. 6, 7.**
- in city of New York, subds. 1-5.**
- West Troy, Albany county, subd. 11.**

**Cession during ownership by the United States, and use for purposes
thereof, with sundry reservations, § 31.**

- in city of New York. subds. 1, 2.**
- in East river, subd. 3.**

- Cession during ownership by United States, with reservation of right**
to serve process, § 24.
at Bedloe's Island, subd. 3.
at David's Island, subd. 5.
at Ellis' Island, subd. 4.
at Fort Hamilton, subd. 7.
at Fort Lafayette, subd. 6.
at Fort Schuyler, subd. 9.
at Fort Wadsworth, subd. 8.
at Governor's Island, subd. 2.
at West Point, subd. 1.
- Cession during ownership by the United States and use for public**
purposes, with reservation of right to serve process, § 26.
at sundry places for light-house purposes, subd. 3.
Brandford Reef, Long Island Sound,
Cedar-Island Light, Suffolk county,
Coxsackie, Greene county,
Cross-over dyke, below Albany,
Cuyler's dyke, near Albany,
Execution Rocks, Long Island Sound,
Four Mile Point, Greene county,
Hart's Island, Westchester county,
Hudson city, Columbia county,
Long-Beach Bar, Suffolk county,
Mill Reef, Richmond county,
Nine-mile Tree, Castleton,
Oyster-pond, Suffolk county,
Parada Hook,
Potter's or Sea-flower Reef, Suffolk county,
Race Rock, Suffolk county,
Roah Hook,
Robin's Reef, New York Harbor,
Romer Shoal, off Sandy Hook,
Sand Spit entrance to Sag Harbor, Suffolk county,
Saugerties, Ulster county,
Split Rock, Lake Champlain,
Stratford Shoal, Long Island Sound,
Stuyvesant, Columbia county,
The Stepping Stones, Long Island Sound,
Van Wie's Point, below Albany,
in Cold Spring Harbor, Queens county, subd. 1.
on Staten Island, subd. 2.

INDEX.

- Cession during use for purposes thereof, with reservation of right to serve process, § 28.**
at Gardiner's Island, subd. 7.
at Prince's Bay, Richmond county, subd. 3.
at Rye, Westchester county, subd. 8.
at Watervliet, Albany county, subd. 9.
in city of New York, subd. 1.
in Fisher's Island Sound, subd. 6.
in Kings county, subd. 2.
in Raritan Bay, subd. 5.
on Staten Island, subd. 4.
- Cession during use for purposes thereof, with sundry reservations, § 32.**
at New Utrecht, subd. 1.
- Cession during use for purposes thereof with sundry reservations, § 34.**
- Cession of jurisdiction to lands acquired for light-house purposes, § 35.**
- Cession without reservation, § 20.**
Little island in Hudson river, § 20.
- Cession with reservation of right to serve process, § 22.**
at Buffalo, Erie county, subd. 11.
at Esopus meadows, Ulster county, subd. 22.
at mouth of Genesee river, subd. 9.
at mouth of Oswego river, subd. 8.
at Oldfield Point, Suffolk county, subd. 12.
at Throgs Neck, Westchester county, subd. 13.
at Utrecht, Kings county, subds. 14, 15.
at West Point, Orange county, subd. 27.
David's Island, New Rochelle, subd. 26.
Galoo Island, Lake Ontario, subd. 6.
Great Gull and Little Gull Islands, Suffolk county, subd. 4.
in bay of New York, subd. 25.
in city of Buffalo, Erie county, subd. 24.
in Cornwall, Orange county, subd. 18.
in Esopus, Ulster county, subd. 22.
in Haverstraw, Rockland county, subd. 17.
in Huntington, Suffolk county, subd. 2.
in Islip, Suffolk county, subd. 16.
in Lyme, Jefferson county, subd. 19.
in Sodus, Wayne county, subd. 10.
island near Rouses Point, Lake Champlain, subd. 7.
islands in New York harbor, subd. 3.
Montock Point, Suffolk county, subd. 1.
on North Brothers Island, Queens county, subd. 21.
on Plumb Island, Suffolk county, subd. 20.

- Cession with reservation of right to serve process, § 22.
 - Sands or Watch Point, Queens county, subd. 5.
- Cession with sundry reservations, § 33.
- Description of the arms of the state, § 40.
- Great seal of the state, § 42.
- Laws repealed by state law, § 45.
- Painted devices of arms in certain public places, § 41.
- Prohibition of other pictorial devices, § 42.
- Saving clause, § 37.
- State boundaries, §§ 1-11.
 - Canada boundary line, § 5.
 - Connecticut boundary line, § 2.
 - Massachusetts boundary line, § 3.
 - New Jersey boundary line, § 7.
 - Pennsylvania boundary line, § 6.
 - Preservation of monuments, § 8.
 - Restoration of monuments, § 9.
 - Saving clause, § 10.
 - Short title, § 1.
 - State sovereignty and jurisdiction, defense of, § 11.
 - Vermont boundary line, § 4.
- State law, when to take effect, § 46.
- Use of the great seal, § 44.

CHAP. 683.

AN ACT in relation to executive officers, constituting chapter nine of the general laws.

APPROVED by the Governor May 18, 1892. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

CHAPTER IX OF THE GENERAL LAWS.

THE EXECUTIVE LAW.

- ARTICLE I. Governor. (§§ 1-7.)
- II. Secretary of state. (§§ 20-26.)
 - III. Comptroller. (§§ 30-32.)
 - IV. State treasurer. (§§ 40-42.)
 - V. Attorney-general. (§§ 50-56.)
 - VI. State engineer. (§§ 60-65.)
 - VII. Provisions applicable to two or more executive officers. (§§ 70-72.)
 - VII * Miscellaneous officers. (§§ 80-91.)

ARTICLE I.

GOVERNOR.

- SECTION 1. Short title and definitions.
- 2. Acting governor.
 - 3. Private secretary of the governor.
 - 4. Annual expenditures of governor.
 - 5. Executive record.
 - 6. Petitions on behalf of state.
 - 7. Repealed.

SECTION 1. Short title and definitions. — This chapter shall be known as the executive law. The office of the governor shall be known as the executive chamber, and his residence, as the executive mansion.

§ 2. Acting governor. — Every provision of law relating to the governor shall extend to the lieutenant-governor, and to the president of the senate, respectively, while acting as governor in pursuance of law.

§ 3. Private secretary of the governor. — The private secretary of the governor shall be appointed by the governor and shall be paid an annual salary of four thousand dollars.

* So in the original.

EXECUTIVE LAW.

§ 4. Annual expenditures of governor. — There shall be annually appropriated to be expended by the governor,

1. Not exceeding ten thousand five hundred dollars for the employment of such clerks, counsel, stenographers, messengers and door-keepers in the executive chamber as may be necessary;

2. Not exceeding two thousand dollars for rewards which may be offered by him and necessary expenses in the apprehension of criminals and fugitives from justice.

3. Not exceeding one thousand dollars for compensation, expenses and fees of witnesses and sheriffs upon applications for executive clemency.

4. Not exceeding four thousand dollars for other incidental expenses of the executive chamber and the administration of his office.

5. Not exceeding two thousand dollars for repairs, furniture and incidental expenses of the executive mansion.

§ 5. Executive records. — The governor shall cause to be kept in the executive chamber,

1. Journals of the daily transactions of his office;

2. Registers, containing classified statements of such transactions;

3. Separate registers containing classified statements of all applications for pardon, commutation or other executive clemency, and of his action thereon;

4. An account of his official expenses and disbursements, including the incidental expenses of his department, and of all rewards offered by him for the apprehension of criminals, and also the expenses incurred by him in sending the reports and copies of the laws of this state to other states.

5. Files of all official records upon which applications for executive clemency are founded; of statements made by judges to him; of sentences to death and of the testimony in capital cases; and of such other papers relating to the transactions of his office, as are deemed by him of sufficient value for preservation.

§ 6. Petitions on behalf of state. — The governor of the state may sign any petition required by law for any change or improvement to be made to a street, avenue or public place, on behalf of the state, the people of the state or any other officer, commission, department or trustee for the state where the title of any property fronting upon any street, avenue or public place in a city, is vested in or held by the people of the state, or is vested in or held by any officer, commission or department of or on behalf of the state.

Section 7, repealed by chap. 248 of 1893.

EXECUTIVE LAW.

ARTICLE II.

SECRETARY OF STATE.

SECTION 20. Salary and expenses.

21. Deputy.
22. Custody of records.
23. Distribution of acts of congress.
24. Supplying statutes to new counties and towns.
25. Legislative manual.
26. Fees.
27. Exchange of laws and reports with other states.

§ 20. **Salary and expenses.**— The secretary of state shall be paid an annual salary of five thousand dollars.

There shall be annually appropriated to be expended by the secretary of state :

1. Not exceeding twenty thousand three hundred dollars for the employment of clerks and messengers in his office;
2. Not exceeding two thousand dollars for furniture, books, binding, blanks, printing and the other necessary incidental expenses of his office.

§ 21. **Deputy.**— The secretary of state shall appoint a deputy who shall be paid an annual salary of four thousand dollars and who may perform all the duties of the secretary of state, except as commissioner of the canal fund and state canvasser.

§ 22. **Custody of records.**— The secretary of state shall have the custody of all laws and concurrent resolutions of the legislature, all documents issued under the great seal, all books, records, deeds, parchments, maps, and papers deposited or kept in his office, and shall properly arrange and preserve them.

§ 23. **Distribution of acts of congress.**— The secretary of state shall distribute the acts of congress received at his office in the same manner as the laws of this state.

§ 24. **Supplying statutes to new counties and towns.**— The secretary of state shall, at the expense of the state, transmit to the clerk of every new county and town, the latest legislative revision of the general laws of the state, and if practicable, a complete set of the volumes of the session laws, passed since the session of 1830. Whenever the revision of the general laws of the state, or any of the volumes of the session laws passed since 1830, belonging to any town, shall be destroyed by fire, the secretary of state shall, if practicable, replace them at the expense of the state.

§ 25. **Legislative manual.**— The secretary of state, at the expense of the state, shall annually prepare and publish the legislative manual,

EXECUTIVE LAW.

and a map of the state, exhibiting the route of all railroads and canals that are completed or in course of construction. The manual shall contain the constitution of the United States and of the state of New York, diagrams of the senate and assembly chambers, and such other information of the nature heretofore published therein, as he may consider useful, and shall be printed and bound in substantially the same style as heretofore. Within two weeks after the commencement of each regular session of the legislature, and earlier if practicable, he shall deliver a copy of the manual and map to each member and officer of the legislature, and to each state officer entitled to the session laws, with the name of each officer or member lettered on the copy of the manual sent to him.

§ 26. **Fees.**—The secretary of state shall collect the following fees:

1. For entering a caveat, twelve and a half cents;
2. Searching the records in his office for any one year and for every other year in which such search is made, six cents;
3. For a copy of any paper or record not required to be certified or otherwise authenticated by him, ten cents per folio;
4. For a certified or exemplified copy of any law, record or paper, fifteen cents per folio;
5. For a certificate under the great seal of the state, one dollar;
6. For recording a certificate, notice or other paper required to be recorded, except as otherwise provided by this section, fifteen cents per folio;
7. For a certificate of the official character of a commissioner of deeds residing in another state or a foreign country, twenty-five cents and for every other certificate under the seal of his office, one dollar;
8. For a certificate as to the official character of such a commissioner, twenty-five cents;
9. For every patent for lands under water, five dollars, and for every other patent the sum of one dollar for each separate lot embraced in such patent;
10. For each license granted to a peddler, the sum of two dollars;
11. For recording the depositions of resident aliens, fifty cents, and for a certified copy of such depositions, fifty cents;
12. For filing and recording the original certificate of incorporation of a railroad corporation for the construction of a railroad in a foreign country, fifty dollars; for filing the original certificate of every other railroad corporation, twenty-five dollars; for filing the original certificate of any other stock corporation, ten dollars;
13. For filing the certificate of a foreign corporation desiring to do business in this state, ten dollars;
14. For certified copies of the evidence and proceedings of the board

EXECUTIVE LAW.

of audit, on appeal to the supreme court, to be paid by the appellant on serving notice of appeal, fifteen cents per folio.

No fee shall be collected for copies of records furnished to public officers for use in their official capacity.

§ 27. **Exchange of laws and reports with other states.**—The secretary of state shall transmit to the executive of each state in the union, three copies of the laws of each year and of the reports of the court of appeals, as soon as published, and request a similar transmission to be made to him of the laws and reports of the highest courts of the several states, and when the laws of another state are received he shall cause one copy thereof to be deposited in the state library, one in the senate library and one in the assembly library; if but one copy be received, it shall be deposited in the state library. The expenses incurred thereby shall be included in the incidental expenses of the administration of his office.

Added by chap. 248 of 1898.

ARTICLE III.

COMPTROLLER.

SECTION 30. Salary and expenses.

31. Deputy.

32. Fees.

§ 30. **Salary and expenses.**—The comptroller shall be paid an annual salary of six thousand dollars and his reasonable expenses when necessarily absent on public business pertaining to the duties of his office. There shall be annually appropriated to be expended by the comptroller :

1. Not exceeding eight hundred dollars for a messenger ;
2. Not exceeding thirty-two thousand dollars for clerk hire ;
3. Not exceeding four thousand dollars for furniture, books, binding, blanks, printing and other necessary incidental expenses in his office.

§ 31. **Dputy.***—The comptroller shall appoint a deputy who shall be paid an annual salary of four thousand dollars and who may perform any of the duties of the comptroller, except the drawing of warrants on the treasury, the auditing of public accounts, and the duties of the comptroller as commissioner of the land office, commissioner of the canal fund, and as state canvasser.

§ 32. **Fees.**—The comptroller shall collect the following fees :

1. For copies of all papers and records not required to be certified or otherwise authenticated by him, ten cents per folio;

* So in the original.

EXECUTIVE LAW.

2. For certified or exemplified copies of all records and papers, fifteen cents per folio;

3. For every certificate under the seal of his office, one dollar ;

4. For opening a new account for part of the consideration due on any lot or piece of land, or for a discharge for any such part, where no new account shall have been opened, two dollars;

5. For a deed of land sold for taxes containing the description of but one piece, fifty cents; and for every additional piece described in the same, ten cents.

ARTICLE IV.

STATE TREASURER.

SECTION 40. Salary and expenses.

41. Undertaking.

42. Deputy.

43. Collection of notaries' fees.

§ 40. **Salary and expenses.**—The treasurer shall be paid an annual salary of five thousand dollars. There shall be annually appropriated to be expended by the treasurer:

1. Not exceeding twelve thousand dollars for salaries of clerks and messengers in his office;

2. Not exceeding one thousand five hundred dollars for furniture, books, binding, blanks, printing and other necessary incidental expenses in his office.

§ 41. **Undertaking.**—The treasurer shall give an official undertaking in the sum of fifty thousand dollars, approved by the president of the senate, speaker of the assembly and comptroller. After the appointment and qualification of his successor, upon filing in the office of the secretary of state a certificate from the committee who shall have examined and settled his accounts of the preceding year, certifying that such accounts are regularly stated and balanced, and that the balance, if any, is actually in the treasury, or deposited as required by law, such undertaking shall be delivered to him for cancellation.

§ 42. **Deputy.** The treasurer shall appoint a deputy, for whose conduct he shall be responsible, who shall be paid an annual salary of four thousand dollars. Such deputy may perform any of the duties of the treasurer, except the signing of checks, and the duties of the treasurer as commissioner of the land office, commissioner of the canal fund, and state canvasser.

§ 43. **Collection of notaries' fees.**—The state treasurer shall promptly collect from county clerks the sums due from them to the



EXECUTIVE LAW.

state for qualification fees paid by notaries public; and on the first day of August to report to the attorney-general for prosecution such county clerk as may be delinquent in payment.

Added by chap. 248 of 1893.

ARTICLE V.

ATTORNEY-GENERAL.

SECTION 50. Salary and expenses.

51. Deputies.
52. General duties.
53. Costs recovered.
54. Register.
55. Additional counsel.
56. Annual report.

§ 50. **Salary and expenses.**—The attorney-general shall be paid an annual salary of five thousand dollars, and the additional sum of one thousand six hundred dollars in lieu and in full of all his personal expenses and disbursements. There shall be annually appropriated, to be expended by the attorney-general:

1. Not exceeding seventeen thousand two hundred dollars for the employment of clerks, stenographers and messengers;

2. Not exceeding seven hundred and fifty dollars for furniture, books, binding, blanks, printing and other incidental necessary expenses of his office;

3. Not exceeding two thousand dollars for costs of actions and proceedings, fees of sheriffs and compensation of witnesses.

§ 51. **Deputies.**—The attorney-general may appoint two deputies, to be designated first and second, each of whom shall receive an annual salary of four thousand dollars, and the additional sum of one thousand dollars in lieu and in full of all personal expenses and disbursements. The attorney-general may appoint such other deputies as he may deem necessary and fix their compensation.

§ 52. **General duties.**—The attorney-general shall:

1. Prosecute and defend all actions and proceedings in which the State is interested, and have charge and control of all the legal business of the departments and bureaus of the State, or of any office thereof which requires the services of attorney or counsel, in order to protect the interests of the State, but this section shall not apply to any of the military department bureaus or military offices of the State.

2. Whenever required by the governor, attend in person, or by one of his deputies, a court of oyer and terminer or appear before the grand jury thereof for the purpose of managing and conducting in such court or before such jury such criminal actions or proceedings as shall be specified in such requirement; in which case the attorney-general or his deputy so attending shall exercise all the powers and perform all the duties in respect of such actions or proceedings, which the district attorney would otherwise be authorized or required to exercise or perform; and in any of such actions or proceedings the district attorney shall only exercise such powers and perform such duties as are required of him by the attorney-general or the deputy attorney-general so attending.

Am'd by chap. 821 of 1895. Took effect May 29, 1895.

3. Upon the request of the governor, secretary of state, comptroller, treasurer, or state engineer and surveyor, prosecute every person charged by either of them with the commission of an indictable offense in violation of the laws, which such officer is specially required to execute, or in relation to matters connected with his department;

EXECUTIVE LAW.

4. Cause all persons indicted for corrupting or attempting to corrupt any member or member-elect of the legislature, or any commissioner of the land office, to be brought to trial;

5. When required by the comptroller or the state engineer, prepare proper drafts for contracts, obligations, and other instruments for the use of the state;

6. Upon receipt thereof, pay into the treasury all moneys received by him for debts due or penalties forfeited to the people of the state.

§ 53. **Costs recovered.**—Costs recovered by the attorney-general may be applied by him in payment of the expenses incurred by him in the action or proceeding in which they are received, or of any expenditure which he is authorized to incur not otherwise provided for. He shall, at the close of each fiscal year, render to the comptroller an account of such costs received, with vouchers of such expenditures.

§ 54. **Register.**—The attorney-general shall keep a register of all actions and proceedings prosecuted or defended by him, and of all proceedings in relation thereto, and shall deliver the same to his successor.

§ 55. **Additional counsel.**—The governor, or attorney-general may designate and employ such additional attorneys or counsel as may be necessary to assist in the transaction of any of the legal business mentioned in section fifty-two of this act and such attorneys or counsel shall be paid from the treasury a reasonable fee upon the certificate of the governor and attorney-general, the amount thereof to be audited and allowed by them or may be paid by the attorney-general out of the costs recovered by him.

Am'd by chap. 821 of 1895. Took effect May 29, 1895.

§ 56. **Annual report.**—The attorney-general shall annually, on or before the first day of February, report to the legislature:

1. As to all moneys belonging to the state received by him during the preceding year by way of costs, damages or otherwise;

2. The title and subject-matter of all actions on appeal, pending, and undetermined, and the condition thereof at the date of such report;

3. What actions, if any, have been brought by him during the year for the recovery of real property claimed to be owned by the state, and the condition of such actions at the date of such report;

4. The title of every action brought by him during the year against a corporation to vacate its charter or annual* its existence, and the condition thereof at the date of such report, with a brief statement of the cause for which such action was brought; and the proceedings during such year in such actions previously brought.

5. Copies of his official opinions during the preceding year, which are deemed by him of general public interest.

*So in the original.

EXECUTIVE LAW.

ARTICLE VI.

STATE ENGINEER.

SECTION 60. Salary and expenses.

61. Deputy.
62. General duties.
63. Documents may be inspected by public.
64. Use of official seal
65. Fees.

§ 60. Salary and expenses.—The state engineer and surveyor may be known as the state engineer, and shall be paid an annual salary of five thousand dollars, and shall be authorized to incur expenditures to be paid by the state;

1. Not exceeding nine thousand two hundred dollars for the employment of clerks, stenographers and messengers in his office;

2. Not exceeding two thousand dollars for furniture, books, binding, blanks, printing and other necessary incidental expenses of his office.

§ 61. Deputy.—The state engineer shall appoint a deputy, who shall be paid an annual salary of four thousand dollars, and who may perform all the duties of the state engineer and surveyor, except as commissioner, trustee or member of any board

§ 62. General duties.—The state engineer shall,

1. Superintend the surveys and sales of lands belonging to the state, in the manner required by law and according to the directions of the commissioners of the land office, when such directions shall have been given;

2. Retain in his office a map of the state, and delineate thereon all changes in the bounds thereof, or of the counties therein;

3. Collect and preserve all maps, plans, drawings, field notes, levels and surveys of every description made for the use of the state, and all engineering instruments belonging to the state;

4. Pay into the treasury all moneys received by him in behalf of the state;

5. Appoint and fix the compensation of such engineers and other assistants as may be necessary to execute such duties as shall be confided to him by statute.

§ 63. Documents may be inspected by public.—The maps, drawings and other documents deposited in the office of the state engineer shall be open for inspection of the public at all reasonable hours, but shall not be removed or taken from the office.

§ 64. Use of official seal.—All certificates of the sale of state lands, copies of maps, surveys, field books, official papers, reports or

EXECUTIVE LAW.

records certified by the state engineer or his deputy, shall be sealed with the seal of his office.

§ 65. **Fees.**—The state engineer shall collect the following fees:

1. For filing every paper, six cents;
2. For all original drafts, twenty-five cents;
3. For drawing original papers, ten cents per folio;
4. For recording papers, ten cents per folio;
5. For copies of papers on file, ten cents per folio;
6. For every search, ten cents;
7. For copies of maps, the sum usually charged therefor;
8. For surveys, at the rate of three dollars per day for the surveyor, exclusive of the reasonable expenses for the hire of men, horses, and for provisions.

ARTICLE VII.

PROVISIONS APPLICABLE TO TWO OR MORE EXECUTIVE OFFICERS.

SECTION 70. **Special reports to legislature.**

71. Quarterly account of fees.
72. Public printing other than legislative.
73. Publication at Albany of certain public notices.
74. Publication of notices required to be published in state paper.

§ 70. **Special reports to legislature.**—The secretary of state, the comptroller, the treasurer, the attorney-general and the state engineer shall report upon all matters referred to them by the legislature or by either house.

§ 71. **Quarterly accounts of fees.**—The secretary of state, the comptroller and the state engineer shall, on the first days of January, April, July and October, file with the treasurer an account in writing of all fees by them respectively received during the preceding quarter, and pay the amount thereof into the treasury.

§ 72. **Public printing other than legislative.**—The public printing payable by the state, other than legislative printing, shall be done as follows: On or before the first day of April, 1892, and of each alternate year thereafter, the secretary of state and comptroller shall give at least twenty days notice in two newspapers published in each senatorial district of the state, that on or before a day specified therein they will receive sealed proposals for the public printing, other than legislative, for two years, the work to be performed in the same style of type, paper and execution as heretofore, and that they will receive separate bids for the printing to be done for the public offices or any portion thereof. To every such bid there shall be annexed the guaranty of a guarantor of sufficient ability, that the person making

EXECUTIVE LAW.

such bid will, if the same is accepted, enter into a contract according to the terms thereof, and give the security required within the time specified in the notice; and to every such guaranty there shall be annexed a certificate of the county judge of the county where the guarantor resides, that the guarantor is a freeholder and able to make good his guaranty. At the expiration of such time they shall open the proposals and enter into a contract with the person or firm who shall make the lowest bid and shall give security approved by them for the faithful performance of his contract.

§ 73. Publication at Albany of certain public notices.— The secretary of state, comptroller and treasurer shall, on or before the first day of January in each year, designate a daily newspaper, published in the city of Albany, to be known as the state paper, in which shall be published during the following year, all appointments of special terms, circuit courts, courts of oyer and terminer and general terms of the supreme court; the rules of practice adopted from time to time by the justices of the supreme court and the judges of the court of appeals; the laws of the state; and notices and advertisements required to be published in a newspaper by the attorney-general, the superintendent of insurance, the superintendent of banks, or in actions against foreign corporations. The publication of such notices and advertisements shall be additional to their publication in other newspapers.

Added by chap. 248 of 1893.

§ 74. Publication of notices required to be published in state paper.— The state paper established by chapter one hundred and ninety-seven of the laws of eighteen hundred and fifty-four has been abolished. A notice or advertisement in an action or special proceeding, required or allowed by law to be published in the state paper on the first day of January, eighteen hundred and eighty-four, shall be published in the county of the place of trial or in which the papers in such special proceeding are required to be or are filed, in a newspaper designated by the court or judge. Every other notice or advertisement required or allowed by law to be published in the state paper on the first day of January, eighteen hundred and eighty-four, shall be published in a newspaper to be designated by the officer, person, board or body allowed or required to so publish, in the county in which such officer, person, board or body shall have a principal place of business, fixed by law, or if there is no such place of business, in the county where such officer or person, or a member of such board or body resides; or if all are non-residents of the state and have no place of business therein, in any newspaper published in the state. If there

EXECUTIVE LAW.

is no newspaper published in the county wherein any such notice or advertisement is required or allowed to be published, or not a sufficient number for the requisite publication thereof, or the newspapers therein decline or refuse to publish the same at the rates allowed by law, the publication thereof may be made in such newspaper published elsewhere as may be designated by such court or judge, or the officer, person, board or body. Proof by affidavit of the publisher, printer or foreman of the publication in the newspaper in which such notice or advertisement is published shall, within ten days after the last publication, be made and tendered to the attorney or person ordering, directing or interested in such publication; but delivery thereof shall not be compulsory in the case of private persons until payment of the charges of publication.

Added by chap. 248 of 1898.

ARTICLE VIII.

MISCELLANEOUS OFFICERS.

SECTION 80. Appointment and salary of state superintendent of weights and measures.

81. Appointment and number of notaries public.
82. Notary public acting in more than one county.
83. Oath and fees of notary public.
84. Fees of county clerks in relation to notaries public.
85. Powers and duties of notaries public.
86. Commissioners of deeds within the state.
87. Commissioners of deeds in other states and foreign countries.
88. Powers of such commissioners.
89. Fees of such commissioners.
90. Laws repealed.
91. When to take effect.

§ 80. **Appointment and salary of state superintendent of weights and measures.**—Upon the occurrence of a vacancy by expiration of term or otherwise in the office of the state superintendent of weights and measures for the state, a scientific man of sufficient learning and mechanical tact to perform the duties of the office shall be appointed such superintendent by the governor, lieutenant-governor and secretary of state or any two of them at a meeting called for that purpose by the secretary of state. Such superintendent shall receive a salary of three hundred dollars a year.

§ 81. **Appointment and number of notaries public.**—The term of office of each notary public hereafter appointed, unless to fill a vacancy, shall be two years from the thirtieth day of March of the year in which he shall be appointed. The governor shall appoint

EXECUTIVE LAW.

by and with the advice and consent of the senate, such number of notaries public in and for the several counties of the state as may be necessary, not exceeding four for each one thousand of population in each county, but of such number the governor is authorized to appoint one notary for each bank applying therefor, and he may also during the recess of the senate appoint to fill existing vacancies, and notaries so appointed shall hold office for the unexpired term for which they are named without confirmation by the senate.

Am'd by chap. 248 of 1893.

§ 83. **Notary public acting in more than one county.**— A notary public appointed for either of the counties of Kings, Queens, Richmond, Westchester, Putnam, Suffolk, Rockland, Orange or Dutchess, or for the city and county of New York, upon filing in the clerk's office in any of such counties, his autograph signature and a certificate of the county clerk of the county for which he is appointed setting forth the fact of his appointment and qualification as such notary public; or any notary public appointed for any county of the state, upon filing in the clerk's office of an adjoining county, his autograph signature and a certificate of the clerk of the county in and for which he is appointed, setting forth the fact of his appointment and qualification, as such notary public, may exercise all the functions of his office, in the county in which such autograph signature and certificates are filed with the same effect in all respects as if the same were exercised in the county in which he resides and for which he was appointed. The county clerk of a county in whose office any notary public has so filed his autograph signature and such certificate, shall, when so requested, subjoin to any certificate of proof or acknowledgment signed by such notary, a certificate under his hand and seal stating that such notary public has filed a certificate of his appointment with his autograph signature in his office, and was at the time of taking such proof or acknowledgment duly authorized to take the same; that he is well acquainted with the handwriting of such notary public and believes that the signature to such proof or acknowledgment is genuine, and thereupon the instrument so proved or acknowledged and certified shall be entitled to be read in evidence or to be recorded in any of the counties of this state in respect to which a certificate of a county clerk may be necessary for either purpose.

Am'd by chap. 88 of 1894. Took effect March 2, 1894.

§ 83. **Notice of appointment and fees payable by notaries public.**— The county clerk of each county, forthwith upon the receipt of the commission of a person appointed notary public for such county, shall mail to such person a notice of his appointment inclosed in an envelope with the address of such county clerk printed thereon. If a person appointed notary public in and for any county shall not file his oath of office as such notary public, in the office of the clerk of such county, within fifteen days after the notice of his appointment is so mailed, or within fifteen days after the commencement of the term for which he is appointed his appointment and office as such notary public shall be deemed vacant, and such clerk shall forthwith notify the governor of such vacancy. Such county clerk shall not file the oath of office of such notary public until there shall be paid to such county clerk, by such notary public :

1. If he reside in New York county or Kings county, ten dollars.
2. If he reside in a city having a population, as shown by the then last preceding

EXECUTIVE LAW

federal or state enumeration, of more than fifty thousand, and less than six hundred thousand, five dollars.

3. If he reside elsewhere, two and one-half dollars.

Neither the clerk of the city and county of New York, nor the county clerk of the county of Kings, shall file a certificate of the appointment and qualification or a person appointed to be a notary public in and for any county other than New York or Kings, until such notary public shall pay such clerk seven and one-half dollars.

Am'd by chap. 88 of 1894. Took effect March 2, 1894.

§ 84. **Disposition of fees paid by notaries public.**—The county clerk of each of the counties of New York, Kings and Erie may appoint an assistant to be known as notarial clerk. The county clerk of Erie county may retain, from each fee so paid by a notary public as a condition of filing his oath of office, one dollar and a half. The clerk of each of the counties of New York and Kings may retain, from each fee so paid by a notary public as a condition of filing his oath of office, three dollars, but not exceeding the total amount of fifteen hundred dollars in any one year, and each of the county clerks of the counties of New York, Kings and Erie, may apply the amount so retained by him in payment of the salary of the notarial clerk in his office. The county clerk in each county other than the counties of New York, Kings and Erie, may retain, from each fee so paid by a notary public as a condition of filing his oath of office, fifty cents. The amounts so retained by a county clerk of any county shall be in full payment for all his services and disbursements connected with the appointment and qualification of notaries public to act as such in such county. If the office of any such county clerk is a salaried office, such county clerk shall pay over the sum so retained by him, to the officer to whom fees of such county clerk are required by law to be paid. The county clerk of every county shall, on the last days of June and December in each year, pay over to the governor out of the amount of fees so paid to such county clerk by notaries public as a condition of filing their oaths of office, during the six months then next preceding, seventy-five cents for each such notary public so filing his oath. The governor may apply the amount so retained by him in payment of the salaries of notarial clerks in the executive chamber. The county clerk in every county shall, on the last days of June and December in each year, pay over to the state treasurer the remainder of all fees paid to such county clerk by notaries public in pursuance of this chapter, during the six months then next preceding, or theretofore paid such clerk and not previously paid over or retained by him in pursuance of law, over and above the amounts so retained by him and the amounts so transmitted by him to the governor.

Am'd by chap. 88 of 1894. Took effect March 2, 1894.

§ 85. **Powers and duties of notary public.**—A notary public has authority :

1. Anywhere within the state to demand acceptance and payment of foreign and inland bills of exchange, and of promissory notes, and may protest for the non-acceptance or non-payment thereof, to exercise such powers and duties as by the law of nations and according to commercial usage, or by the laws of any other government, state or country, may be performed by notaries.

2. In the county in and for which he shall have been appointed and elsewhere, as provided in section eighty-two of this act, to administer oaths and affirmations, to take affidavits and certify the acknowledgment and proof of deeds and other written instruments to be read in evidence or recorded in this state, in all cases in which commissioners of deeds may now take and certify the same, and under the same rules, regulations and requirements prescribed to said last mentioned officers, not inconsistent with any of the provisions of this act; except that a county clerk's certificate authenticating the official character and the signature of such notary shall not be necessary to entitle any deed or other written instrument so proved and acknowledged, to be read in evidence or recorded in a county in which the autograph signature and certificate of appointment and qualification of such notary shall have been filed, pursuant to section eighty-two of this act. The acts authorized by this subdivision may be performed by such notary without official seal. For any misconduct in the performance of any such powers, a notary public shall be liable to the parties injured for all damages sustained by him. A notary public shall not, directly or indirectly, demand or receive for the protest for the non-payment of any note, or for the non-acceptance or non-payment of any bill of

EXECUTIVE LAW.

exchange, check or draft, and giving the requisite notices and certificates of such protest, including his notarial seal, if affixed thereto, any greater fee or reward than seventy-five cents for such protest, and ten cents for each notice, not exceeding five, on any bill or note. He shall, except as otherwise provided, when requested, affix his seal to such protest free of expense.

Am'd by chap. 88 of 1894. Took effect March 2, 1894.

§ 86. **Commissioners of deeds within the state.**—Commissioners of deeds in the cities of this state shall be appointed by the common councils of such cities respectively, and shall hold office for the term of two years from the date of their appointment, and until others are appointed in their places. A vacancy occurring during the term for which any commissioner shall be appointed, shall be filled by the common council. The common councils of the several cities of this state, shall, on or before the first day of January, eighteen hundred and ninety-three, and at the end of every two years thereafter, by resolution of the board, determine the number of commissioners of deeds to be appointed for such cities respectively. The foregoing provisions of this section shall not apply in the city of New York. Commissioners of deeds in the cities of this state shall have power to take proof and acknowledgment of all written instruments.

Am'd by chap. 88 of 1894. Took effect March 2, 1894.

§ 2. All proofs or acknowledgments of written instruments taken and certified by notaries public or commissioners of deeds in this state since September thirtieth, eighteen hundred and ninety-two, in conformity with the laws of the state, as the same existed on that date, and all records of instruments so proven or acknowledged and which would have been duly recorded according to the laws of the state as the same so existed prior to said date, are hereby in all things validated and confirmed.

Added by chap. 88 of 1894. Took effect March 2, 1894.

§ 87. **Commissioners of deeds in other states and foreign countries.**—The governor may appoint not to exceed fifteen commissioners of deeds in a city or county of any other state of the United States, and not to exceed ten such commissioners in a city of any foreign country, each of whom shall be a resident of or have his place of business in the city or county from which chosen, and shall hold office for the term of four years. Each commissioner, before performing any of the duties or exercising any of the powers of his office, shall take the constitutional oath of office, if appointed for a city or county within the United States, before a justice of the peace or some other magistrate in such city or county; and if for a city in a foreign country, before a person authorized by the laws of this state to administer an oath in such country, or before a clerk or judge of a court of record in such foreign country; and shall cause to be prepared an official seal on which shall be designated his name, the words "commissioner of deeds for the state of New York," and the name of the city or county, and the state or country from which appointed; and shall file a clear impression of such seal, his written signature and his oath certified by the officer before whom it was taken, in the office of the secretary of state. The secretary of state upon receipt of such impression, signa-

EXECUTIVE LAW.

ture and oath, shall forward to such commissioner instructions and forms, and a copy of section eighty-seven, eighty-eight and eighty-nine of this chapter.

Am'd by chap. 248 of 1893.

§ 88. Powers of such commissioners.—Every such commissioner shall have authority, within the city or county for which he is appointed, and in the manner in which such acts are performed by authorized officers within the state:

1. To take the acknowledgment or proof of the execution of a written instrument, except a bill of exchange, promissory note or will, to be read in evidence or recorded in this state.

2. To administer oaths.

3. If appointed for a foreign country, to certify to the existence of a patent, record or other document recorded in a public office or under official custody in such foreign country, and to the correctness of a copy of such patent, record or document, or to the correctness of a copy of a certified copy of such patent, record or other document, which has been certified according to the form in use in such foreign country. A written instrument so acknowledged or proved, an oath so administered, or a copy or copy of a certified copy of such a patent, record or other document, may be read in evidence or recorded within this state, the same as if taken, administered or certified within the state before an officer authorized to take the acknowledgment or proof of a written instrument, to administer oaths, or to certify to the correctness of a public record, if there shall be annexed or subjoined thereto, or indorsed thereon, a certificate of the commissioner before whom such acknowledgment or proof was taken, by whom the oath was administered, or by whom the correctness of such copy is certified, under his hand and official seal, specifying, if for another state, the day on which, and the city or town in which, the acknowledgment or proof was taken, or the oath administered (without which specification when required the certificate shall be void); and authenticated by the certificate of the secretary of state, annexed or subjoined to the certificate of such commissioner, that such commissioner was, at the time of taking such acknowledgment or proof of administering such oath, or of certifying to such patent, record or document, or copy thereof, duly authorized therefor, that he is acquainted with the handwriting of such commissioner, or has compared the signature to the certificate with the signature of such commissioner deposited in his office, that he has compared the impression of the seal affixed to such certificate with the impression of the seal of such commissioner deposited in his office, and that he verily believes the signature and the impression of the seal

EXECUTIVE LAW.

upon such certificate to be genuine. The certificate of a commissioner as to the correctness of a copy of a certified copy of a patent, record or other document, as provided by this section, shall be presumptive evidence that it was certified according to the form in use in such foreign country

Am'd by chap. 248 of 1893.

§ 89. Fees of such commissioners.—The fees of such commissioners shall be as follows:

1. If appointed for another state, not to exceed four times the amount allowed by the laws of such state for like services, and not to exceed in any case one dollar for taking the proof or acknowledgment of a written instrument, or administering an oath;

2. If appointed for Great Britain or Ireland, for administering or certifying an oath, one shilling sterling, and for taking the proof or acknowledgment of a written instrument, or for certifying to the existence or correctness of a copy of a patent, record or document, four shillings sterling;

3. If appointed for France or any other foreign country, for administering and certifying an oath, one franc and twenty-five centimes, and for taking the proof or acknowledgment of a written instrument, or for certifying to the existence or correctness of a copy of a patent, record or document, five francs.

§ 90. Laws repealed.—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

§ 91. When to take effect.—This chapter shall take effect on October 1, 1892.

SCHEDULE OF LAWS REPEALED.

Revised Statutes..... Part I, chap. VIII..... All except titles III and IV.

Revised Statutes..... Part I, chap. IX, title I..... All.

Revised Statutes..... Part III, chap. III, title II. Article II, sections 41, 44, 45, 48.

LAWS OF	Chapter	Sections
1835.....	52.....	All.
1836.. ..	536.....	All.
1837.....	476.....	All.
1839.....	23.....	All.
1840.. ..	259.....	All.
1841.....	218.....	All.
1841.....	274.....	All.
1842.....	220.....	All.

EXECUTIVE LAW.

LAWS OF	Chapter	Sections
1844.....	176.....	All.
1846.....	147.....	All.
1847.....	350.....	All.
1848.....	75.....	All.
1848.....	161.....	All.
1848.....	357.....	All.
1850.....	270.....	All.
1851.....	134.....	16,17,18,19.
1857.....	633.....	All.
1857.....	788.....	All.
1859.....	360.....	All.
1859.....	437.....	All.
1862.....	21.....	All.
1863..	508.....	All.
1864.....	29.....	All.
1865.....	356.....	All.
1865.....	539.....	All.
1867.....	420.....	All.
1868.....	479.....	All.
1869.....	317.....	All.
1869.....	448.....	All.
1870.....	660.....	All.
1871.....	3.....	All.
1871.....	167.....	All.
1872.....	703.....	All.
1873.....	643.....	All.
1873.....	807.....	All.
1874.....	100.....	All.
1875.....	87.....	All.
1875.....	136.....	All.
1875.....	227.....	All.
1876.....	58.....	All.
1876.....	130.....	All.
1878.....	18.....	All.
1878.....	40.....	All.
1878.....	301.....	All.
1880.....	86.....	All.
1880.....	115.....	All.
1880.....	160.....	All.
1880.....	234.....	All.
1882.....	156.....	All.
1883..	140..	All.

EXECUTIVE LAW.

LAWS OF	Chapter	Sections
1883.....	233.....	All.
1884.....	66.....	All.
1884.....	270.....	All.
1885.....	61.....	All.
1885.....	63.....	All.
1885.....	252.....	All.
1886.....	230.....	All.
1886.....	359.....	All.
1886.....	448.....	All.
1887.....	516.....	All.
1888.....	542.....	All.
1889.....	200.....	All.
1890.....	260.....	All.

INDEX TO EXECUTIVE LAW.

	SECTION
Acting governor.....	2
Acts of congress, distribution of.....	23
Additional counsel to be employed by governor or attorney-general	55
Annual expenditures of governor.....	54
report of attorney-general.....	56
Appointment and salary of state superintendent of weights and measures.....	80
of notaries public.....	81
Attorney-general, annual report of.....	56
costs recovered by.....	53
deputy.....	51
general duties of.....	52
may employ additional counsel.....	55
salary and expenses of.....	50
to keep register.....	54
to report to legislature.....	70
Certificates of state engineer or deputy to be sealed with seal of his office.....	64
Collection of notaries' fees.....	43
Commissioners of deeds, fees of.....	89
in other states and foreign countries.....	87
powers of.....	88
within the state.....	86
Comptroller, deputy.....	31
fees of.....	32
salary and expenses of.....	30
to make quarterly accounts of fees.....	71
to report to legislature.....	70
County clerks, fees of, in relation to notaries public.....	84
Costs recovered by attorney-general.....	53
Custody of records.....	22
Deputy attorney-general.....	51
comptroller.....	31
secretary of state.....	21
state engineer.....	61
state treasurer.....	42

INDEX.

	SECTION
Distribution of acts of congress.....	23
Documents in office of state engineer may be inspected by public	63
Duties of notaries public.....	85
Exchange of laws and reports with other states.....	27
Executive law, when to take effect.....	91
records.....	5
Expenses of attorney-general.....	50
of comptroller.....	30
of secretary of state.....	20
of state engineer.....	60
of state treasurer.....	40
Fees of commissioners of deeds.....	89
of comptroller.....	32
of county clerk in relation to notaries public.....	84
of notary public.....	83
of secretary of state.....	26
of state engineer.....	65
General duties of attorney-general.....	52
duties of state engineer.....	62
Governor, acting.....	2
annual expenditures of.....	4
may employ additional counsel.....	55
private secretary of.....	3
Laws repealed by executive law.....	90
Legislative manual.....	25
Manual, legislative.....	25
Notaries' fees, collection of.....	42
Notaries public, acting in more than one county.....	82
appointment and number of.....	81
fees of county clerks in relation to.....	84
oath and fees of.....	83
powers and duties of.....	85
Number of notaries public.....	81
Oath of notaries public.....	83
Petitions on behalf of state.....	6
Powers of commissioners of deeds.....	88
of notaries public.....	85
Private secretary of governor.....	3
Public printing other than legislative.	72
Publication at Albany of certain public notices.....	73
of notices required to be published in state paper.....	74
Records, custody of.....	22
executive.....	5

INDEX

	SECTION
Register of attorney-general.....	54
Salary of attorney-general.....	50
of comptroller.....	30
of secretary of state.....	20
of state engineer.....	60
superintendent of weights and measures.....	80
treasurer.....	40
Secretary of state, deputy.....	21
fees of.....	26
salary and expenses.....	20
to distribute acts of congress.....	23
to exchange laws and reports with other states.....	27
to have custody of records.....	22
to make quarterly accounts of fees.....	71
to prepare and publish legislative manual.....	25
to report to legislature.....	70
to supply statutes to new counties and towns.....	24
Short title and definitions.....	1
State engineer, deputy.....	61
documents in office may be inspected by public.....	63
fees of.....	65
general duties of.....	62
salary and expenses of.....	60
to attach official seal to certificate.....	64
to make quarterly accounts of fees.....	71
to report to legislature.....	70
superintendent of weights and measures, appointment and salary of.....	80
treasurer, deputy.....	42
salary and expenses of.....	40
to collect notaries' fees.....	43
to report to legislature..	70
undertaking of.....	41
Statutes, supplying to new counties and towns.....	24
Supplying statutes to new counties and towns.....	24
Undertaking of state treasurer.....	41

CHAP. 682.

AN ACT in relation to legislation, constituting chapter eight of the general laws.

APPROVED by the Governor May 18, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

CHAPTER VIII OF THE GENERAL LAWS.

THE LEGISLATIVE LAW.

- ARTICLE I.** Members, officers and employes of the legislature. (§§ 1-22.)
II. The enactment and publication of laws. (§§ 40-49.)
III. Legislative committees; testimony in legislative proceedings. (§§ 60-65.)
IV. Legislative printing and binding. (§§ 70-81.)

ARTICLE I.

MEMBERS, OFFICERS AND EMPLOYES OF THE LEGISLATURE.

- SECTION 1.** Short title.
2. Exemption of members and officers from arrest.
3. Expulsion of members.
4. Contempts of either house.
5. Payment of salaries of members.
6. Officers and employes of the senate.
7. Officers and employes of the assembly.
8. Appointments to be entered on journals.
9. Stenographers to special committees.
10. Compensation of officers and employes.
11. Compensation during extra sessions and impeachment trials.
12. Attendance of officers of each session at opening of next session.
13. Officers remaining after adjournment.
14. Undertaking of clerk of each house.
15. Duties of clerks.
16. Supplies furnished by clerks.
17. Accountability of clerks to comptroller.
18. Duties of postmasters and assistants.
19. Duties of stenographers.
20. Detail of officers and employes for special duties.
21. Limitation of legislative expenses.
22. Custody of legislative papers and documents.
23. Duties of commissioners of statutory revision.

SECTION 1. Short title.— This chapter shall be known as the legislative law.

LEGISLATIVE LAW.

§ 2. Exemption of members and officers from arrest.—A member of the legislature shall be privileged from arrest in a civil action or proceeding other than for a forfeiture or breach of trust in public office or employment, while attending upon its session, and for fourteen days before and after each session, or while absent for not more than fourteen days during the session with the leave of the house of which he is a member.

An officer of either house shall be privileged from arrest in such a civil action or proceeding while in actual attendance upon the house. Either house shall have the power to discharge from arrest any of its members or officers arrested in violation of his privilege from arrest.

§ 3. Expulsion of members.—Each house has the power to expel any of its members after the report of a committee to inquire into the charges against him, shall have been made.

§ 4. Contempts of either house.—Each house may punish by imprisonment not extending beyond the same session of the legislature, as for a contempt, for the following offenses only:

1. Arresting a member or officer of either house in violation of his privilege from arrest;

2. Disorderly conduct of its members, officers or others in the immediate view and presence of the house, tending to interrupt its proceedings;

3. The publication of a false and malicious report of its proceedings, or of the conduct of a member in his legislative capacity;

4. Giving or offering a bribe to a member, or attempting, by menace or other corrupt means, directly or indirectly, to influence a member in giving or withholding his vote, or in not attending meetings of the house of which he is a member;

5. Neglect to attend or to be examined as a witness before the house, when duly required to give testimony in a legislative proceeding.

§ 5. Payment of salaries of members.—The salary of a member of the legislature shall be payable during the session, from time to time, at the rate of ten dollars per day, at any time during the session for the number of days then expired, not exceeding in the aggregate twelve hundred dollars, before the final adjournment of the legislature. The balance of such salary shall be payable at the final adjournment of the legislature.

§ 6. Officers and employees of the senate.—The president of the senate may appoint a clerk, a stenographer and a messenger, to be known as the president's clerk, the president's stenographer and the president's messenger. The senate may choose a clerk, a sergeant-at-arms, a stenographer, a postmaster, who shall also act as assistant

LEGISLATIVE LAW.

sergeant-at-arms, an assistant postmaster, a post-office messenger, a principal doorkeeper, and seven assistant doorkeepers, a person to act as janitor of the senate chamber and its ante-rooms, and two assistant janitors, fifteen persons to serve as clerks to the committees, one of whom shall be designated to serve as clerk to the committee on finance, one to the committee on judiciary, one to the committee on general laws, one to the committee on cities, one to the committee on railroads, one to the committee on canals, and the others to serve under the direction of the clerk of the senate upon the remaining standing committees of the senate. The clerk of the senate may appoint one assistant clerk, a journal clerk, an assistant journal clerk, five deputy clerks, an index clerk, an assistant index clerk, a librarian, an assistant librarian, a financial clerk, a superintendent of documents, four assistant superintendents of documents, such superintendent of documents and his assistants to also perform the work of the wrapping department, six messengers and fifteen pages, who shall be appointed for the session and who shall not be under fourteen years of age, to serve under the direction of the clerk of the senate as messengers to committees.

Am'd by chap. 24 of 1893 and by chap. 856 of 1895. To take effect January 1, 1896.

§ 7. Officers and employees of the assembly.—The speaker of the assembly may appoint a clerk, a stenographer and a messenger, to be known as the speaker's clerk, the speaker's stenographer and the speaker's messenger, respectively, and also eight assistant doorkeepers, a postmaster, and an assistant postmaster, a post-office messenger, a janitor of the assembly chamber and its ante-rooms, one assistant janitor, six general messengers and eighteen clerks of committees, one of whom shall be designated to serve as clerk to the committee on ways and means, one as clerk to the committee on judiciary, one as clerk to the committee on cities, one as clerk to the committee on railroads, one as clerk to the committee on codes, one as clerk to the committee on villages, and the others to serve under the direction of the clerk of the assembly. He may also appoint six stenographers, one of whom shall be assigned to the committee upon ways and means, and one to the committee upon cities, and one of whom shall be assigned to the selected representative of the minority upon the committee upon ways and means, and the three remaining to serve under the direction of the clerk. The assembly may choose a clerk, a sergeant-at-arms, a stenographer, a principal doorkeeper who shall act as assistant sergeant-at-arms, and a first and second assistant. The clerk of the assembly may appoint a stenographer to the clerk, an assistant clerk, a journal clerk, an assistant journal clerk, twelve deputy clerks, one of whom shall act as clerk to the committee on engrossed bills, and one as clerk to the committee on revision, who shall be an expert in matters pertaining to that position, an index clerk, two assistant index clerks, an assistant clerk to the committee on engrossed bills, a librarian and assistant librarian, a financial clerk, an assistant financial clerk, a superintendent of the wrapping department, an assistant to the superintendent of the wrapping department, a mail and document carrier, a superintendent of documents, an assistant superintendent of documents, five messengers, one of whom shall have charge of the pages under the direction of the clerk of the assembly, five messengers to committees, and thirty pages.

Am'd by chap. 24 of 1893 and by chap. 856 of 1895. To take effect January 1, 1896.

§ 8. Appointments to be entered on journals.—All appointments made under this chapter shall be entered on the journal of the house wherein made, with a statement of the date of appointment and the length of time the same is to continue.

§ 9. Stenographers to special committees.—No additional officers or employees shall be elected or appointed by the senate or assembly,

LEGISLATIVE LAW.

except that either house, by a majority vote, may employ a stenographer for a committee of investigation or other special committee.

§ 10. The compensation of officers and employees.—The following compensation shall be paid to the officers and employes of the senate and assembly for the annual session of the legislature: To the clerk of each house, three thousand five hundred dollars; to the clerk of the senate, five hundred dollars, and to the clerk of the assembly, seven hundred and fifty dollars for indexing the journals, bills and documents of the senate and assembly; to the clerk of the senate, not to exceed five hundred dollars; to the clerk of the assembly, not to exceed seven hundred and fifty dollars for the extra clerical service and engrossing; to each assistant clerk, two thousand five hundred dollars; to each journal clerk, two thousand five hundred dollars; each assistant journal clerk, one thousand five hundred dollars; to each deputy clerk, one thousand five hundred dollars; to each financial clerk, one thousand five hundred dollars; to the assistant financial clerk of the assembly, ten dollars per day; to each index clerk, two thousand dollars; to each assistant index clerk, one thousand five hundred dollars; to the clerk of the president of the senate and to the speaker's clerk, each ten dollars per day; to the stenographer of the president of the senate, of the speaker and clerk of the house, and each of the six stenographers appointed in addition thereto by the speaker, five dollars per day; to each sergeant-at-arms, librarian, assistant librarian, postmaster, assistant postmaster, and principal doorkeeper, six dollars per day; to each assistant doorkeeper, janitor, assistant janitor, superintendent of documents, and to each assistant superintendent of documents, five dollars per day; to each stenographer of each house one thousand five hundred dollars; each clerk of the senate committee upon finance and affairs in cities, ten dollars per day; to each clerk of the senate committee upon judiciary and general laws, seven dollars per day; to each clerk of the assembly committee upon ways and means and cities, ten dollars per day; to the clerk of the assembly committee upon judiciary and codes, seven dollars per day; to the clerk of the committee on engrossed bills of the senate, six dollars per day; to each clerk of the other committees of each house, five dollars per day; to the assistant clerk of the committee on engrossed bills of the assembly, five dollars per day; to each post-office messenger of each house, three dollars per day; to the messenger of the president of the senate and the speaker, each, three dollars per day; to the superintendent of the wrapping department; to each assistant superintendent of the wrapping department and the mail and document carrier of the assembly, five dollars per day; to the general messengers of each house, three dollars per day; to each clerk's messenger of each house and to each messenger of the committees of the assembly, three dollars per day; to the messenger of the assembly having charge of the pages, five dollars per day, and to each page, two dollars per day. The pay of the officers or employes who receive by this chapter a per diem compensation shall commence at the date of the appointment, and no person employed shall receive any additional compensation during the term of service for which he shall be appointed.

Am'd by chaps. 24 and 473 of 1894 and by chap. 856 of 1895. To take effect January 1, 1896.

LEGISLATIVE LAW.

§ 4. Said act is further amended by adding at the end thereof the following section, to be known as section twenty-two:

§ 22. All bills that involve any appropriation from the treasury of the State, when introduced in the senate, shall be referred to the committee on finance, and when introduced in the assembly, shall be referred to the committee on ways and means.

Added by chap. 836 of 1895. To take effect January 1, 1896.

§ 11. Compensation during extra sessions and impeachment trials.—An employe of the senate or assembly, during an extra session of the legislature, or an officer or employe of the senate designated to attend upon the senate when sitting as a court for the trial of impeachments, or upon the trial of public officers on the recommendation of the governor, shall receive the same per diem allowance during such term or extra session as his compensation or per diem allowance would give per day of the regular session of the same year.

§ 12. Attendance of officers of each session at opening on next session.—The following officers only of each session shall attend and receive compensation for their services upon the opening of the next succeeding session of the legislature.

The clerk of each house, or in his absence or disability, the assistant clerk and the journal clerk, speaker's clerk, sergeant-at-arms, postmasters, librarian and principal doorkeeper of the senate and assembly, an assistant doorkeeper and four pages in the senate, and three assistant doorkeepers, two messengers and six pages in the assembly, the assistant doorkeepers, messengers and pages to be designated by the presiding officer of the house for which appointed before the close of the session and entered upon the journal of the house. The officers named in this section shall receive for services upon the opening of a succeeding session of the legislature the same per diem compensation as they were entitled to receive at the preceding session for like services.

§ 13. Officers remaining after adjournment.—The presiding officers of each house may designate five officers thereof to remain after the adjournment of the legislature to perform duty under the direction of the clerk of each house respectively, for not to exceed thirty days.

LEGISLATIVE LAW.

Such officers shall receive the same per diem compensation respectively, as they were entitled to receive during the session, to be paid upon the warrant of the comptroller, on the certificate of the clerk of the house for which appointed.

Am'd by chap. 491 of 1894 and by chap. 477 of 1895. Took effect May 1, 1895.

§ 14. **Undertaking of clerk of each house.**—The clerk of each house before entering on the duties of his office, shall execute an official undertaking in the sum of five thousand dollars.

§ 15. **Duties of clerks.**—The clerks of the senate and assembly shall annually, without extra compensation, revise, and send to the members of the legislature, before the organization thereof, the Clerk's Manual, and shall, within thirty days after the organization of the legislature, prepare a statistical list of the members and officers, with their boarding places or place of residence while in the city of Albany.

The clerk of each house shall, as soon as practicable after the close of each session, prepare and deliver to the legislative printer the indexes to the journal, bills and documents of each house.

§ 16. **Supplies furnished by clerks.**—The clerk of each house shall purchase all stationery, printed blanks and other articles necessary for use in his official work or in the work of the sergeant-at-arms; and shall furnish its members, officers and reporters with necessary stationery and writing materials and the clerk of the assembly shall prepay the postage upon all letters deposited with him for transmission through the mails by members of the assembly. The clerk of each house shall, under the direction and subject to the approval of the comptroller, purchase such furniture as may be necessary for the house of which he is clerk.

Am'd by chap. 24 of 1898.

§ 17. **Accountability of clerk to comptroller.**—The clerk of each house at the end of each month during the session shall account to the comptroller for all moneys received up to that time, and within ten days after the close of the session, shall file with the comptroller an abstract in such form and containing such particulars as the comptroller shall direct of all expenditures made by him, with the vouchers therefor; and shall give him satisfactory evidence that the expenditures were reasonable.

Am'd by chap. 24 of 1898.

§ 18. **Duties of postmasters and assistants.**—The postmasters and assistant postmasters and post-office messengers shall perform all the labors in the post-offices of their respective houses.

LEGISLATIVE LAW.

§ 19. Duties of stenographers.—The stenographers shall attend at every session of the body for which they are appointed or elected and take stenographic notes of the debates of such body and in the committee of the whole thereof, and furnish a copy thereof, written out in long hand, to any member of such body.

Am'd by chap. 24 of 1898.

§ 20. Detail of officers and employes for special duties.—The presiding officer and clerk of each house may detail any of the officers or employes thereof to perform such duties in addition to those ordinarily performed as they may deem advisable to promote the business of such house.

§ 21. Limitation of legislative expenses.—Neither house shall, without the consent of the other, order to be printed more than four thousand copies of any paper or document, or the purchase of any books, the aggregate cost of which shall exceed one hundred dollars; or appoint any committee of its own members or others at the public expense, except in case of contested elections; or incur any expense whatever except as provided by this chapter.

§ 22. Custody of legislative papers and documents.—The clerk of each house shall take charge of and keep on file all documents of such house, and those presented to it; and shall cause all papers in his charge to be so classified and arranged, that they can be easily found.

No paper shall be withdrawn from the files of either house, whether the same be in charge of the regents of the university or the clerk of such house, except that such clerk or a deputy appointed by him shall have access to the papers of such house in charge of the regents for the purpose of taking copies. Any person may obtain a certified copy of any paper or document on such files by applying to the clerk in charge thereof, and paying to such clerk the same fees as are charged by law by the secretary of state for engrossing and certifying exemplifications of records deposited in his office. Either house may, by resolution, order title deeds or original documents accompanying any petition to be delivered to the person entitled thereto.

§ 23. Duties of commissioners of statutory revision.—It shall be the duty of the commissioners of statutory revision, on request of either house of the legislature or of any committee, member or officer thereof to draft or revise bills, to render opinions as to the constitutionality, consistency or other legal effect of proposed legislation and to report by bill such measures as they deem expedient.

Added by chap. 24 of 1898.

LEGISLATIVE LAW.

ARTICLE II.

THE ENACTMENT AND PUBLICATION OF LAWS.

SECTION 40. Certificate of presiding officer.

41. Evidence of when bill becomes a law.

42. Deposit of laws and concurrent resolutions with secretary of state.

43. Time of taking effect of laws.

44. Statements in session laws as to passage of laws.

45. Contents of published volumes of session laws.

46. Officers and institutions entitled to receive session laws.

47. Officers and institutions entitled to receive bound volumes of journals, bills and documents.

48. Slips of session laws and concurrent resolutions to be forwarded to newspapers.

49. Slips of session laws to be forwarded to clerks.

§ 40. Certificate of presiding officer.— Upon the passage of a bill or concurrent resolution by either house, the presiding officer thereof shall append to such bill or resolution, a certificate of the date of its passage by the votes of a majority of all the members elected to such house or in the presence of three-fifths of such members, if such be the case, or by the votes of two-thirds of all the members elected to such house, as the case may be. No bills shall be deemed to have so passed unless certified by the presiding officer, which certificate to such effect shall be conclusive evidence thereof.

Am'd by chap. 58 of 1894. Took effect March 15, 1894.

§ 41. Evidence of when bill becomes a law.— If a bill becomes a law by the approval of the governor, the certificate of the governor shall be the evidence of the time when the bill becomes a law. If a bill becomes a law by the failure of the governor to sign it or to return it to the house where it originated without his approval within the time required by the constitution, the certificate of the secretary of state of the time when it was filed in his office shall be evidence of the time when it became a law.

§ 42. Deposit of laws and concurrent resolutions with secretary of state.— Every concurrent resolution upon its passage, and every bill upon its becoming a law, with the certificate of the presiding officer of each house appended thereto, shall be deposited with the secretary of state. The secretary of state shall forthwith upon such deposit indorse upon each bill his certificate of the day, month and year it was filed in his office, and his certificate to such effect shall be presumptive evidence thereof. The secretary of state shall cause the original laws and concurrent resolutions passed at each session to be bound together in a volume of convenient size to be kept in his office. He shall compare with the original a volume of the printed laws, and having noted therein at the end of each law or resolution any error in the printed volume, shall deposit such printed volume with the

LEGISLATIVE LAW.

original volume in his office. Each such volume shall be lettered on its back with its title and the session at which the laws were passed.

§ 43. **Time of taking effect of laws.**— Every law, unless a different time shall be prescribed therein, shall not take effect until the twentieth day after it shall have become a law.

§ 44. **Statement in session laws as to passage of law.**— In the publication of every law, the secretary of state shall omit the certificates appended thereto, but shall cause to be inserted immediately under the title of the law, a statement to the effect that it became a law upon the properly specified date, with or without the approval of the governor, or notwithstanding his objections, as the case may be, and adding the words “passed by a two-thirds vote,” “passed, three-fifths being present,” or “passed, a majority being present,” in accordance with the certificates appended to the original bill. Such statement shall be presumptive evidence that the original law was certified by the presiding officer of each house accordingly.

Am'd by chap. 53 of 1894. Took effect March 15, 1894.

§ 45. **Contents of published volumes of session laws.**— The secretary of state shall annually cause indexes to the laws to be prepared as soon as possible after the adjournment of the legislature and shall cause a statement of the names and residences of the governor, lieutenant-governor, senators and members of assembly, and presiding officers of both houses in office during each session, the laws and concurrent resolutions passed thereat, the indexes thereof, and such other matters as are required to be published in the volumes of the session laws, to be printed and bound. Each volume printed for the state shall contain the certificate of the secretary of state that it was printed under his direction.

§ 46. **Officers and institutions entitled to receive session laws.**— As soon as the session laws of each session are printed and bound the secretary of state shall distribute the bound printed volumes:

1. To the clerk of the senate, for the use of the senate, sixteen copies; and to the clerk of the assembly, for the use of the assembly, eighteen copies.

2. To the governor, for the use of the executive chamber, the lieutenant-governor, members of the legislature, clerks of the two houses, judges of the court of appeals, the justices of the supreme court, county judges, judges of the superior city courts, and the commissioners of claims each one copy; and to each state officer, and to each board or commission of state officers, having an office in the capitol, for their respective offices, each one copy.

3. One copy to each of the following officers: Each town clerk, for the use of the town, each district attorney, the clerk of each board of

LEGISLATIVE LAW.

supervisors, for the use of the board, each surrogate, except where the county judge acts as surrogate, for the use of the surrogate's court, to the mayor of each city, for the use of the city, and to each village clerk. Every such officer shall deliver such copy of the session laws to his successor in office.

4. To each incorporated college or university of the state, one copy.

5. To the athenæums of the cities of Philadelphia, Boston, New York and Albany, and to the Historical Society of the city of New York, each one copy.

6. To the secretary of state of the United States, four copies.

7. To the governors of the several states, as many copies as are directed to be sent by the governor of this state.

Am'd by chap. 218 of 1894. Took effect March 31, 1894.

§ 47. Officers and institutions entitled to receive bound volumes of journals of* bills and documents.—As soon as the journals, bills and documents are bound, the secretary of state shall distribute them as follows:

1. For the senate, thirty-eight copies of the journals and documents;

2. For the assembly, one hundred and fifty copies of the journals and documents;

3. For the senate library, three copies of the journals and documents, and two copies of the bills;

4. For the assembly library, five copies of the journals and documents, and three copies of the bills;

5. For counties, public officers and incorporated colleges and universities in this state, one hundred and twenty-three copies of the journals and documents;

6. For the literary and scientific exchanges, to be made by the regents of the university, including one copy of each for each state and territory, one hundred and seven copies of the journals and documents;

7. For the state library, two copies of the journals, documents and bills;

8. To the executive chamber, one copy of the bills;

9. To the office of the secretary of state, one copy of the bills.

§ 48. Slips of the session laws and concurrent resolutions to be forwarded to newspapers.—The secretary of state shall send to each newspaper designated by the members of the board of supervisors representing, respectively, each of the two principal political parties into which the people of the county are divided, or if there is but one newspaper published in a county, to such newspaper in the

*So in the original.

LEGISLATIVE LAW.

order in which they are passed, and as soon as the slips are printed, copies of all laws of a general nature, of such local laws as relate to the affairs of the county in which such newspaper is published, and of such concurrent resolutions, as are required to be published.

Concurrent resolutions proposing amendments to the constitution shall be published in such newspapers once in each week for thirteen consecutive weeks, under the direction of the secretary of state, at the expense of the state.

§ 49. Slips of session laws to be forwarded to clerks.—The county clerk of each county shall, on or before the first day of January of each year, notify the secretary of state of the total number of towns, villages and cities within such county. The secretary of state, as soon as practicable after the receipt of the slips of the session laws from the printer shall send to the county clerk of each county a sufficient number of each printed slip of each law and concurrent resolution of the legislature affecting such county or any municipality therein, to supply such county and each such municipality affected by any such law or concurrent resolution, with one copy thereof. The county clerk of each county, as soon as practicable after the receipt thereof, shall send one of each such slips affecting any town, village or city therein to the clerk thereof, and shall retain one of each such slips on file in his office. Such distribution by the county clerk shall be by mail and shall be a county charge. Such slips shall be kept on file in the office of such clerks, arranged in the order in which they were passed. Such clerks shall not be entitled to any fee or compensation for filing such slips or keeping the same on file in their respective offices.

Am'd by ch. 259 of 1896. In effect April 15, 1896.

Am'd by ch. 132 of 1893 and ch. 138 of 1894.

ARTICLE III.

LEGISLATIVE COMMITTEES; TESTIMONY IN LEGISLATIVE PROCEEDINGS.

SECTION 60. Testimony before legislative committees.

61. Subcommittees.
62. Witnesses fees.
63. Expenses of committees
64. Contested elections.
65. Expenses of unsuccessful contestant.

§ 60. Testimony before legislative committees.—A legislative committee may require the the* attendance of witnesses in this state, whom the committee may wish to examine, or may issue a commission for the examination of witnesses who are out of the state, or unable to attend the committee, or excused from attendance, which commission if directed by the house or legislature by which the com-

*So in the original.

LEGISLATIVE LAW.

mittee is appointed, may be executed during the recess of the legislature. A commission, issued as provided by this section, shall be in the form used in the courts of record of this state, and shall be executed in like manner. Unless otherwise instructed by the committee appointing them, the commissioners shall examine privately every witness attending before them, and shall not make public the particulars of such examination.

§ 61. **Subcommittees.**—Whenever any standing committee of either house of the legislature shall be required to make an inquiry or investigation, such committee may appoint a subcommittee of not less than three of its own members to make such inquiry or investigation, and to take testimony in relation thereto; and such committee or subcommittee and the chairman thereof shall respectively have all the powers and authority, which are conferred by law upon any committee which is authorized to send for persons or papers, or upon the chairman thereof.

§ 62. **Witnesses fees.**—Any person attending as a witness under the provisions of the last two sections shall receive the same fees as are allowed witnesses in civil actions in courts of record. Such fees need not be prepaid, but the comptroller upon the certificate of the chairman of the committee, and proof by affidavit or otherwise that the same is due, shall draw his warrant for the payment of the amount thereof.

§ 63. **Expenses of committees.**—Whenever by resolution of either house, a committee duly appointed by it, shall be directed to conduct an investigation or take testimony in any other place than the city of Albany, the comptroller shall draw his warrant for the payment of the actual and necessary expenses of the committee or subcommittee having in charge such investigation, inquiry or taking of testimony, and of the officers and employes authorized to accompany them, upon the rendition of an itemized bill of such expenses certified by the chairman of the committee, and approved by the presiding officer of the house, by which the committee was appointed, and upon proof by affidavit or otherwise that the same is due.

§ 64. **Contested elections.**—Upon the application of any person desirous of obtaining testimony respecting the election of a member of either house, for the purpose of contesting an election, or resisting a contest thereof, any county judge of the county, or justice of the supreme court of the district, or the mayor or recorder of a city in which the member or applicant shall reside, may require the attendance of persons named by the applicant, at a specified time and place, to be examined respecting such election; and shall, at the same time, issue a notice to the opposite party of the time, place and object of

LEGISLATIVE LAW.

such examination. The notice shall be served in the same manner as a notice of motion in a court of record. At the time appointed for the examination, upon proof of the due service of such notice, the witnesses who shall attend or who shall be produced by either party, shall be examined under oath before such officer, respecting such matters relating to the election about to be contested, as shall be proposed by either party. The testimony given upon such examination shall be reduced to writing, signed by the witnesses respectively, certified by the officer before whom it was taken, and with the subpoena, notice and proof of the service thereof, shall be sent by him under seal to the clerk of the house to which the election pertains.

A witness attending before such officer, by virtue of a subpoena, shall receive the same fees, as are allowed to witnesses in civil suits in courts of record, to be paid by the party at whose instance such witness was summoned.

§ 65. **Expenses of unsuccessful contestant.**—When the seat of any member of the legislature shall be contested, no expenses incurred by the contestant, in prosecuting his claim, shall be paid by the state, unless such seat be awarded to the contestant.

ARTICLE IV.

LEGISLATIVE PRINTING AND BINDING.

SECTION 70. Definition of legislative printing.

71. Proposals for printing session laws.
72. Proposals for other legislative printing.
73. Printing legislative journals.
74. Printing bills.
75. Printing messages and reports.
76. Extra copies of messages and reports.
77. Extra copies of legislative documents.
78. Repealed.
79. Legislative binding.
80. Laws repealed.
81. When to take effect.

§ 70. **Definition of legislative printing.**—The legislative printing shall include the printing of the slips of the session laws and the state edition thereof, and all the bills, journals and documents of the senate and assembly and such extra copies thereof as may be ordered pursuant to law for the use of the legislature or state officers or state departments, or state institutions or societies which are required by law to make reports to the legislature, including the edition of the annual report of the superintendent of insurance, of the superintendent of banks and of the board of railroad commissioners.

LEGISLATIVE LAW.

§ 71. **Proposals for printing session laws.**—The secretary of state and comptroller shall, on or before the first day of April in each year, give at least twenty days' notice in at least two newspapers published in the city of Albany, and that on or before a specified day they will receive sealed proposals for the printing and delivery at the office of the secretary of state, within three days after a copy thereof shall have been furnished of the slips of the session laws, in such number as the secretary of state shall order; and for the printing and the publishing for the use of the state of two thousand five hundred copies or such additional number as the legislature by concurrent resolution may order of the session laws with the indexes thereto, and such other matters as are required to be published therewith, the work to be done in the city of Albany in the same style of execution as to type and paper as heretofore furnished. The notice may invite proposals for the printing separately of such laws passed at any session of the legislature as the secretary of state may deem to be general laws, within forty days after the adjournment of the legislature, and the remainder of the laws to be printed separately within ten days after the time limited for the completion of the printing of the general laws, or for the printing or publishing continuously in one or more volumes of all the laws so passed within twenty days after the secretary of state shall have furnished the copy therefor, and of the terms upon which copies of the session laws will be furnished to the public, after the completion and delivery of the state edition to the binder, as directed by the secretary of state, and of the places in the cities of Albany and New York where the same will be kept on sale. To every such bid there shall be annexed the guaranty of a guarantor of sufficient ability, that the person making such bid will, if the same is accepted, enter into a contract according to the terms thereof, and give the security required within the time specified in the notice, and to every such guaranty a certificate shall be annexed of the county judge where the guarantor resides, that the guarantor is a freeholder and able to make good his guaranty. Upon receiving such proposals, the secretary of state and comptroller shall enter into a contract with the person or persons who make the lowest bid and furnish security of not less than ten thousand dollars, approved by them, and they may discriminate in favor of such bid as they deem most favorable to the state and to the public, as to price, time and manner of execution, or may reject all the bids, if deemed unfavorable or disadvantageous and advertise anew for such work. The secretary of state, after the execution of the contract, may direct the session laws to be printed or published in two or more volumes, if they can not conveniently be printed or published in one volume. Upon the failure or non-performance of the terms of the contract as entered into, the comptroller shall withhold payment from

LEGISLATIVE LAW.

the contractor for printing and publishing thereunder, and shall enforce payment of the penalty in the bond, which shall be recoverable as liquidated damages in any action by the people.

Am'd by chap. 732 of 1894. Took effect May 21, 1894.

§ 72. **Proposals for other legislative printing.**—The secretary of state, the attorney-general and comptroller, shall on or before the first day of May, 1893, and on or before the first day of May in each alternate year thereafter, give notice in two public newspapers of different politics, published in each of the cities of Albany, Troy, New York, Syracuse, Rochester and Buffalo, that they will, thirty days after the publication of such notice, and on a day named therein, receive sealed proposals for the whole of the printing and other work provided to be done under this article, except the printing of the session laws and slips, and such other work as is required to be done under the direction of the secretary of state, for two years commencing on the first day of October next thereafter, to be performed in the manner to be prescribed in such notice, at the expiration of which time they shall open said proposals and enter into a contract with such person or firm as shall make the lowest offer or offers computed upon the basis of the number of ems of composition and pages printed during the preceding year, and the number of copies called for by this article. Such person or firm shall give security to the people of the state of New York, to the satisfaction of the secretary of state, attorney-general and comptroller, for the faithful performance of his or their contract, which shall be made and continued in force for two years, commencing on the first day of October next after the opening of the bids. Such officers shall have the right to reject any proposal or proposals where there shall appear to be collusion between the bidders to the disadvantage of the state, and to readvertise for proposals for the same, until advantageous and satisfactory proposals shall be received and shall so readvertise whenever any contract shall be annulled or abrogated as provided by this article. The secretary of state, attorney-general and comptroller shall furnish all persons desiring to propose or bid for the public or legislative printing, blanks for proposals or bids for such printing in the form following :

188 .*

To the honorable secretary of state, attorney-general and comptroller: (Name of person or persons, or firm, as the case may be, and place of residence). The undersigned propose to do public or legislative printing and work connected therewith, for the state of New York, at the prices and on the conditions herein named, and agree to comply fully with the requirements of law relative to the public or legislative printing, and in quantity, quality and manner

*So in the original.

LEGISLATIVE LAW.

set forth, described and provided in the advertisement or notice calling for proposals for said printing, namely: For each one thousand ems of composition for senate and assembly bills, \$, and for paper, press-work, pressing, folding, stitching and trimming of each four pages, for six hundred and forty copies, \$; and for each additional one hundred copies thereof, for paper, press-work, pressing, folding, stitching and trimming for each signature of four pages, when ordered by statute, \$. Journals, legislative record, messages from the governor, reports of standing or select committees, and the testimony taken before such committees when ordered to be printed, and reports and communications made in pursuance of law, or of a resolution of either house when ordered by the house to which such message, report or communication shall have been made, or by joint resolution, at the prices following:

For each one thousand ems of plain matter, \$; for each one thousand ems of rule, or rule and figure composition, \$; for the paper, press-work, pressing, folding, stitching and trimming of each signature of eight pages, for seven hundred and nineteen copies of the journals or documents of each house, \$ / ; and for the paper, press-work, pressing, folding, stitching and trimming of each additional one hundred copies of journals or documents of either house, for each signature of eight pages, when ordered by the statute, \$. When extra copies of messages from the governor, reports of standing or select committees and reports and communications made in pursuance of law, or of a resolution of either house, or of a concurrent resolution, are ordered by statute to be printed and bound, the price for binding to be as follows:

For binding in paper covers extra copies of reports ordered as above set forth, per copy, \$; for binding in cloth extra copies of reports ordered as above set forth, per copy, \$; for engraving on stone, steel or wood, and printing maps, plans and illustrations for the legislative documents, the price to be paid, including cutting, folding and pasting the same, shall in no case exceed the lowest rates current for work of the desired quality in Albany and New York city at the time said work may be done. It is understood that no extra pay will be claimed or allowed for any corrections or alterations in proof-sheets. And the right to abrogate or annul any contract made in pursuance hereof, for failure or non-performance on the part of said person or firm, is hereby expressly reserved to the secretary of state, attorney-general and comptroller; hereby guarantee that if the foregoing bid for the public or legislative printing is accepted, that will enter into a contract in compliance with said proposals, and give the necessary security, certify that the above

LEGISLATIVE LAW.

guarantor resides in the of freeholder, and able to make good guaranty.

To every bid there shall be annexed the guaranty of one or more guarantors of sufficient ability, that the person making such bid will, if the same be accepted, enter into a contract according to the terms thereof, and give the security required by law in such case, within the time specified for the purpose in such notice; and to every such guaranty a certificate shall be annexed of the county judge of the county where the guarantor resides, that the guarantor is a freeholder and able to make good his guaranty, together with a certified check on some state bank or national bank, or the money, to the amount of five per centum of said bid.

§ 73. **Printing legislative journals.**— There shall be printed by such contractor, within forty-eight hours after the receipt of the copy from the clerks of the senate and assembly, seven hundred and nineteen copies of the journal of each house. As soon as they are printed, he shall deliver them in sheets folded, stitched and trimmed as follows: To the superintendent of documents of the senate, eighty copies; to the superintendent of documents of the assembly, one hundred and ninety copies; to the state officers, thirty copies; to the state library, one copy; and the remaining copies gathered and collected in the order of their numbers in volumes of not less than one thousand pages and in every way ready for the binder with the indexes thereto, shall be delivered by him as soon as practicable after the close of the session to the secretary of state.

§ 74. **Printing bills.**— There shall be printed by such contractor, within twenty-four hours after the receipt of the copy, six hundred and forty copies of each bill, the printing of which shall be ordered by either house. As soon as they are printed, he shall deliver them as follows: To the superintendent of documents of the senate, one hundred and fifty copies; to the superintendent of documents of the assembly, four hundred and fifty copies; to the state officers, thirty copies; to the state library, one copy; and the remaining copies gathered and collected in the order of their numbers and in every way ready for the binder, with the indexes thereto, shall be delivered by him as soon as possible after the close of the session to the secretary of state.

§ 75. **Printing messages and reports.**— There shall be printed by such contractor before the first day of February in each year, seven hundred and nineteen copies of the messages from the governor, reports of standing or select committees (which shall not include testimony taken by such a committee, when printed for the use of the committee by the order of either house), and reports and communica-

tions made in pursuance of law, when ordered by the house to which such message, report or communication shall be made. As soon as they are printed he shall deliver them in sheets folded, stitched and trimmed as follows: To the superintendent of documents of the senate, eighty copies; to the superintendent of documents of the assembly, one hundred and ninety copies; to the state officers, thirty copies; to the state library, one copy; and the remaining copies gathered and collected in the order of their numbers and in volumes of not less than one thousand pages, and in every way ready for the binder, with the indexes thereto, shall be delivered by him as soon as possible after the close of each session, to the secretary of state. The expense of printing and binding the annual report of the superintendent of insurance, shall be determined by the superintendent of insurance and comptroller; of the superintendent of banks, by the superintendent of banks and the comptroller; and of the board of railroad commissioners, by the board of railroad commissioners and the comptroller.

§ 76. **Extra copies of messages and reports.**—In addition to the usual number of regular reports made by the state officers and institutions, there shall be printed as extra copies of legislative documents for the use of the respective departments, institutions and boards: Of the governor's message, six thousand copies, one thousand for the governor and five thousand for the legislature; of the comptroller's report of the finances of the state, one thousand copies; on the canals, two hundred and fifty copies; of the state treasurer's report, seven hundred copies; of the attorney-general's report, five hundred copies bound in cloth, one hundred for the use of the attorney-general, and four hundred for the use of the legislature; of the state engineer and surveyor's report on canals, two thousand five hundred copies, one thousand copies of the same to be bound in cloth; of the report of the superintendent of the insurance department, in addition to the fifteen hundred copies authorized by law, two thousand copies; of the report of the adjutant-general, one thousand copies, bound in cloth and five hundred copies in paper; of the report of the superintendent of public works, two thousand five hundred copies; of the report on tolls, trade and tonnage, five hundred copies; of the report of the superintendent of state prisons, one thousand copies bound in cloth and two thousand copies bound in paper; of the report of the state board of charities, fifteen hundred copies; of the report of the state board of health, three thousand copies; of the report of the state board of claims, five hundred copies; of the report of the bureau of labor statistics, five thousand copies, two thousand copies thereof for the use of the legislature; of the report of the civil service commission, one thousand copies; of the re-

LEGISLATIVE LAW.

port of the agricultural experiment station, fifteen thousand copies, three thousand for the trustees and twelve thousand for the legislature; of the regents' report, one thousand copies; of the state library report, one thousand copies; of the state museum of natural history report, eighteen hundred copies, fifteen hundred for the regents and three hundred for the curator; of the annual report of the railroad commissioners, seven thousand copies, all bound in cloth, four thousand for the use of the legislature and three thousand for the railroad commissioners; of the report of the superintendent of public instruction, fifteen thousand copies, all bound in cloth, to be distributed by that officer as follows: Eleven thousand three hundred copies for the school districts of the state, being one copy for each school district; nine hundred copies to the school commissioners and city superintendents of schools; two hundred copies to the state normal and training schools; three hundred copies to academies and high schools; one thousand copies to members and officers of the legislature and state officers; one thousand copies for the use of the state superintendent of public instruction; also three hundred copies printed on forty-four pound calendered paper and bound in leather, for exchange with the superintendents of public instruction of the states and territories, and for distribution among public libraries; of the state geologist's report, fifteen hundred copies, one thousand for the legislature and five hundred for the state geologist; of the dairy commissioner's report, twenty-five hundred copies; of the factory inspector's report, eight thousand five hundred copies, fifteen hundred thereof for the legislature and seven thousand for the use of the inspectors; of the report of the board of mediation and arbitration, fifteen thousand copies, and of the report of the commissioners of fisheries, fifteen hundred copies for the use of the commissioners, and for all other institutions established by the state, when their printing is not done by the institution, seven hundred copies each, and for the hospitals and asylums for the insane, fifteen hundred copies each. All of the extra copies of the reports mentioned in this section, except as otherwise provided, shall be bound in paper covers, unless a report shall embrace more than three hundred pages, in which case one-half of the number of extra copies shall be bound in cloth, and one-half in paper covers.

§ 77. **Printing extra copies of legislative documents.**—Such contractor shall print any extra number of copies of bills, journals, messages, reports and other documents named in this article, whenever ordered by law, and for such extra work, for the bills of the two houses, the price shall be named in the contract for each one hundred copies of a signature of four pages, including the paper, press-

LEGISLATIVE LAW.

work, pressing, folding collating, stitching and trimming, and for the journals and documents, the price shall be named in the contract for each one hundred copies of a signature of eight pages, including the paper, press-work, pressing, folding, collating, stitching and trimming. Unless otherwise directed by law, such contractor shall deliver one-third of such extra number to the senate and two thirds to the assembly. Any extra copies of messages, reports or documents, ordered in pursuance of this section, shall be bound by such contractor in paper covers in the usual manner, unless otherwise ordered by law.

Section 78 repealed by chap. 24 of 1898.

§ 79. Legislative binding.—The secretary of state and comptroller shall, on or before the first day of April, 1892, and of each alternate year thereafter, give at least twenty days notice in two newspapers in each of the eight judicial districts of the state, that, on or before a day specified therein, they will receive sealed proposals for the binding for two years of the state edition of the session laws, and of the copies of the journals, bills and documents delivered by the contractor for legislative printing to the secretary of state, the work to be performed in the same style as heretofore.

To every bid there shall be annexed a guaranty, subscribed by a guarantor of sufficient ability, that the person making such bid if the same be accepted,* enter into a contract according to the terms thereof, and give the security required by law within the time specified for the purpose in the notice, and to every such guaranty a certificate shall be annexed of the county judge of the county where the guarantor resides, that such guarantor is a freeholder and able to make good his guaranty.

Upon the expiration of the time specified in the notice the secretary of state and comptroller shall open the proposals and enter into a contract with the person or firm which shall make the lowest bid and shall give security approved by them, for the faithful performance of the contract. They shall not be compelled to accept any bid unless they deem the same advantageous to the state, and they may reject all the bids, if they deem them disadvantageous, and advertise anew for such work.

§ 80. Laws repealed.—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

§ 81. When to take effect.—This chapter shall take effect on October 1, 1892.

* So in the original.

LEGISLATIVE LAW.

SCHEDULE OF LAWS REPEALED.

Revised Statutes.....Part I, chapter 7 All.

LAWS OF	Chapter	Section
1829.....	275.....	All.
1837.....	140.....	All.
1839.....	263.....	All.
1842.....	306.....	All.
1842.....	310.....	2, 3.
1843.....	98.....	All.
1845.....	280.....	All.
1846.....	24.....	All.
1847.....	253.....	All.
1847.....	254.....	All.
1847.....	458.....	All.
1853.....	530.....	All.
1854.....	51.....	All.
1858.....	331.....	All.
1859.....	1.....	All.
1859.....	321.....	All.
1860.....	395.....	All.
1868.....	345.....	All.
1870.....	113.....	All.
1870.....	215.....	All.
1874.....	15.....	All.
1874.....	416.....	All.
1875.....	9.....	All.
1875.....	557.....	All.
1879.....	379.....	All.
1880.....	60.....	All.
1881.....	5.....	All.
1881.....	215.....	All.
1885.....	341.....	All.
1885.....	461.....	All.
1886.....	515.....	All.
1886.....	588.....	All.
1886.....	653.....	All.
1887.....	181.....	All.
1887.....	193.....	All.
1887.....	625.....	All.
1887.....	710.....	All.
1888.....	4.....	All.
1888.....	58.....	All.

LEGISLATIVE LAW.

LAWS OF	Chapter	Section
1888.....	171.....	All.
1888.....	247.....	All.
1888.....	317.....	All.
1889.....	96.....	All.
1891.....	67.....	All.

INDEX TO LEGISLATIVE LAW.

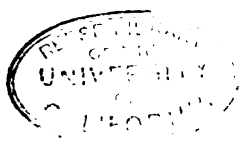
	SECTION
Accountability of clerk to comptroller	17
Appointments to be entered on journals.....	8
Assembly, officers and employes of.....	7
Attendance of officers of each session at opening of next session..	12
Bills, printing.....	74
Certificate of presiding officer.....	40
Clerk, undertaking of	14
Clerks, accountability of, to comptroller.....	17
duties of	13
supplies furnished by.....	16
Commissioners of statutory revision, duties of.....	23
Committees, expenses of	63
Compensation during extra sessions and impeachment trials.....	11
of officers and employes.....	10
Contempts of either house	4
Contents of published volumes of session laws.....	45
Contested elections	64
County clerks, slips of session laws to be forwarded to.....	49
Custody of legislative papers and documents	22
Definition of legislative printing	70
Deposit of laws and concurrent resolutions with secretary of state.	42
Detail of officers and employes for special duties.....	20
Duties of clerks.....	15
of commissioners of statutory revision	23
of postmasters and assistants.....	18
of stenographers....	19
Elections, contested.....	64
Employes, compensation of.....	10
detail of, for special duties	20
of assembly	7
of senate.....	6
Evidence of when bill becomes a law	41
Exemption of members and officers of legislature from arrest....	2
Expenses of committees.....	63
of unsuccessful contestant in contested election.....	65

INDEX.

Expulsion of members.....	
Extra copies of legislative documents.....	
of messages and reports.....	
sessions, compensation during.....	
Fees, witnesses.....	
Impeachment trials, compensation during.....	
Institutions entitled to receive bound volumes of journals, bills and documents.....	
entitled to receive session laws.....	
Journals, appointments to be entered on.....	
Laws and concurrent resolutions, deposit of, with secretary of state.....	
repealed by legislative law.....	
Legislative binding.....	
committees, testimony before.....	
documents, extra copies of.....	
expenses, limitation of.....	
journals, printing.....	
law, when to take effect.....	
papers and documents, custody of.....	
printing, definition of.....	
proposals for other.....	
Limitation of legislative expenses.....	
Members, expulsion of.....	
payment of salaries of.....	
exemption of, from arrest.....	
Messages, extra copies.....	
printing.....	
Officers, compensation of.....	
detail of, for special duties.....	
entitled to receive bound volumes of journals, bills and docu- ments.....	
to receive session laws.....	
of assembly.....	
of each session, attendance of, at opening of next session...	
of legislature, exemption from arrest.....	
of senate.....	
remaining after adjournment.....	
Passage of law, statement in session laws to.....	
Payment of salaries of members.....	
Postmasters and assistants, duties of.....	
Presiding officer, certificate of.....	

INDEX.

	SECTION
Printing bills.....	74
legislative journals.....	73
messages and reports	75
Proposals for other legislative printing.....	72
for printing session laws.....	71
Reports, extra copies	76
printing.....	75
Salaries of members, payment of	5
Secretary of state, deposit of laws and concurrent resolutions with ..	42
Senate, officers and employes of.....	6
Session laws, contents of published volumes of.....	45
officers and institutions entitled to receive	46
proposals for printing.....	71
slips of, to be forwarded to clerk.....	49
to be forwarded to newspapers.....	48
statement in, as to passage of law	44
Short title	1
Slips of session laws and concurrent resolutions to be forwarded to newspapers.....	48
to be forwarded to clerk	49
Special committees, stenographers to.....	9
Statements in session laws as to passage of laws.....	44
Stenographers, duties of.....	19
to special committees.....	9
Sub-committees.....	61
Supplies furnished by clerks.....	16
Testimony before legislative committees	60
Time of taking effect of laws	43
Undertaking of clerk of each house.....	14
Unsuccessful contestant, expenses of.....	65
When bill becomes a law, evidence of.....	41
Witnesses fees.....	62



CHAP. 227.

AN ACT relating to public buildings, constituting chapter fourteen of the general laws.

APPROVED by the Governor March 27, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

CHAPTER XIV OF THE GENERAL LAWS.

THE PUBLIC BUILDINGS LAW.

- ARTICLE I. Trustees and superintendent of public buildings; capitol commissioner. (§§ 1-11.)
- II. Washington's headquarters. (§§ 20-25.)
- III. Senate house at Kingston. (§§ 30-32.)
- IV. New York State Soldiers and Sailors' Home. (§§ 40-46.)

ARTICLE I.

TRUSTEES AND SUPERINTENDENT OF PUBLIC BUILDINGS; CAPITOL COMMISSIONER.

- SECTION 1. Short title. .
2. Trustees of public buildings.
3. Powers and duties of trustees.
4. Powers and duties of superintendent.
5. Room for the Grand Army of the Republic.
6. Capitol commissioner.
7. Powers and duties of capitol commissioner.
8. Contracts, how awarded.
9. Political test.
10. Accounts.
11. Inspector.

SECTION 1. Short title.—This chapter shall be known as the public buildings law.

§ 2. Trustees of public buildings.—The governor, lieutenant-governor and speaker of the assembly shall be trustees of public buildings, which include the state hall, geological hall, capitol and executive mansion, with the buildings, grounds and premises adjacent or appurtenant thereto or connected therewith belonging to the state, so far as such grounds and premises now or hereafter shall be laid out and completed, and the entire public sidewalks bordering upon the capitol grounds and parks for the purpose of keeping such sidewalks

PUBLIC BUILDINGS LAW.

at all times clear of snow, ice, dirt and all other obstructions; and the streets bordering upon such grounds and parks to the center line thereof for the purpose of keeping the same clean.

§ 3. Powers and duties of trustees.—The trustees of public buildings shall:

1. Allot to the legislature and the different departments and officers of the state government such space and room in the capitol and other buildings under their custody, as they may be entitled to by law and as in the judgment of the trustees shall be adequate and suitable and cause the same to be properly furnished.

2. Take all necessary measures for the careful preservation of the furniture and other personal property belonging to the state in such buildings.

3. Appoint and remove at pleasure a superintendent of public buildings.

4. Fix the salary of all employes in the maintenance department under the charge of the superintendent of public buildings.

5. Report to the legislature on or before the fifteenth day of January in each year an estimate of the sum necessary for expenses of the maintenance department of the public buildings for the ensuing year, and transmit therewith a copy of the inventory of movable property delivered to them by the superintendent.

§ 4. Powers and duties of superintendent.—The superintendent shall:

1. Hold office for two years, unless sooner removed; receive an annual salary to be fixed by the trustees not exceeding five thousand dollars, and all necessary traveling expenses when in discharge of his duties, and before entering on the duties of his office, execute and file in the office of the comptroller an official undertaking in the sum of ten thousand dollars, with two sureties to be approved by the comptroller. Said superintendent shall, in addition to the duties herein specifically enumerated, perform such other duties and make such investigations as he shall be directed and required to do by the governor or by the said trustees, and report back thereon.

Am'd by chap. 591 of 1895. Took effect May 10, 1895.

2. Have charge and care of the buildings and grounds specified in this article and observe the orders and directions of the trustees relating to the preservation thereof and to the maintenance department of such buildings.

3. Subject to the approval of the trustees, appoint all persons necessary in the maintenance department of the public buildings and grounds under his charge and suspend or remove any of them and prepare rules and regulations for their government.

4. Subject to the approval of the trustees, purchase such articles as are required in the maintenance department. All coal shall be purchased of the lowest bidder, taking into consideration price and quality, after four weeks advertisement for proposals in two newspapers published in the city of Albany.

PUBLIC BUILDINGS LAW.

5. Cause the flag of the United States and the state flag bearing the arms of the state, to be displayed upon the capitol building during the daily sessions of the legislature and on public occasions, and cause the necessary flag-staffs to be erected therefor. The necessary expenses incurred thereby shall be paid out of the treasury on the warrant of the comptroller.

6. Without process and of his own authority, arrest and convey to any magistrate in the county of Albany any person found intoxicated or disorderly, or in the commission of a breach of the peace within any building or on any grounds under his charge, and designate not exceeding eight of his employes, who, on taking and filing an oath of office with the county clerk of Albany county, shall have the same power of arrest and presentment of complaint as the superintendent.

§ 5. **Room for the Grand Army of the Republic.**— There shall continue to be set apart and suitably furnished by the superintendent of public buildings, the room in the capitol now under the charge of the commander of the Grand Army of the Republic for the department of New York, and such rooms so furnished shall remain under the charge of such commander and such officers who are members of such department as he or his successors may appoint, and be used by him and them for the purpose of storing the supplies and property of such grand army and its relics and mementoes of the war and arranging and preserving the history of individuals belonging to organizations of the state who served in the army, navy or marine corps, during the late war of the rebellion, or of citizens of this state who served in the regular army, navy or marine corps of the United States, which such Grand Army of the Republic may collect and desire to preserve as a part of the history of the state. Such records shall be accessible at all times under suitable rules and regulations to members of the Grand Army of the Republic and others engaged in collecting historical information. The commander of the Grand Army of the Republic for the department of New York shall annually report to the legislature, on or before April first, such portions of the transactions of the Grand Army of the Republic as he deems to be of interest to that organization and to the people of the state.

§ 6. **Capitol commissioner.**— There shall be an officer known as the capitol commissioner, appointed by the governor, by and with the advice and consent of the senate, who shall hold office until the end of the term of the governor by whom he was appointed, unless the capitol building is sooner completed, when the office shall cease. He shall receive an annual salary of seven thousand five hundred dollars. Before entering on the duties of his office, he shall execute an official undertaking in the sum of fifty thousand dollars, with sufficient sureties approved by the comptroller and filed in his office. The present commissioner of the new capitol shall be the capitol commissioner until his successor shall be appointed and qualified. In addition to his other duties, the capitol commissioner shall, without additional compensation, prepare the plans and specifications, and act as the architect, of all buildings constructed at the expense of the State.

Am'd by chap. 784 of 1895. Took effect May 27, 1895.

PUBLIC BUILDINGS LAW.

§ 7. Commission.—The construction and completion of the unfinished portions of the capitol, the completion of the approaches to the building, the laying out of the grounds, and the care and custody of the unfinished portions thereof shall be under the supervision of a commission consisting of the lieutenant-governor, state engineer and surveyor, the superintendent of public works and two persons appointed by the governor, one of whom shall be an architect of at least ten years' experience in the practice of his profession. The commissioners appointed by the governor shall hold office until the expiration of the term of the governor by whom they are appointed and until their successors are appointed and have qualified, unless the capitol is sooner completed, when their offices shall terminate. The commissioners shall receive no compensation for their services, but if non-residents of Albany, shall be paid their actual and necessary traveling and hotel expenses. Such commission shall examine the drawings and specifications for such work, as prepared and submitted by the commissioner of the new capitol, alter the same if, in its judgment, desirable, approve said drawings and specifications when completed to their satisfaction, and indorse thereon such approval, and see that the materials furnished and the work performed shall be in accordance with the plans and specifications so approved. A majority of the said supervising commissioners shall constitute a quorum, and the assent of a majority of said supervising commissioners shall be required for the transaction of any business of the commission. Within five days after the appointment of commissioners by the governor, the commissioners shall meet and elect one of their number to be chairman and another secretary of the commission. The secretary shall keep a true record of its proceedings in a book to be provided by him for that purpose, which shall be filed with the comptroller on the completion of their duties. Such commission may employ such clerical and other assistants as it deems necessary, and may use the office of the capitol commissioner for the purpose of its meetings.

Am'd by chap. 737 of 1895. Took effect May 23, 1895.

§ 8. Contracts.—The work of completing the construction of the capitol and its approaches, except such portions of the ornamental and decorative work, the eastern approach and the balustrades of the western staircase, as in the opinion of the commission would be for the best interest of the State to be done by day's labor, shall be done in pursuance of contract, in accordance with the plans and specifications approved by such commission. Within twenty days after the amendment to this section takes effect, such commission shall publish a notice in the official State newspaper and in a daily newspaper published in the city of New York, and continue such publication for six successive days, Sundays excepted, advertising for bids for completing the capitol and its approaches, in accordance with such plans and specifications, except such portions thereof as such commission shall determine, in pursuance of section seven of this chapter, to complete by day's labor. Such commission may, in its discretion, determine whether to advertise for the completion of the capitol and its approaches by one contract or by two or more contracts. Such notice shall specify a place at which, on application, the plans and specifications for the completion of such work will be subject to inspection, and a day on which such bids will

PUBLIC BUILDINGS LAW.

be opened by such commission. Upon receiving such proposals, such commission may enter into a contract with the lowest responsible bidder or bidders who shall furnish security approved by such commission for the faithful performance of the contract. The commission may discriminate in favor of such bid, as it deems most favorable to the State and to the public, as to price, or time and manner of construction, or may reject all the bids, if deemed unfavorable or disadvantageous to the State, or if there shall appear to be collusion between the bidders, and advertise anew for such work. Every contract shall reserve the right to the commission to declare such contract forfeited when, in the judgment of the commission, it is not being performed for the best interest of the State. The commission shall not permit any contractor to enter upon the performance of his contract unless there shall be sufficient money appropriated to pay such contractor for the estimated work to be performed by him prior to the first day of the succeeding April. No member of the commission shall have any interest in any contract for labor to be done or materials to be furnished under its supervision, nor shall it purchase any land.

Am'd by chap. 737 of 1895. Took effect May 23, 1895.

§ 9. Payments on contracts.—All payments for work done or materials furnished, shall be made upon the certificates of the commissioner of the new capitol, approved by the chairman and secretary of the supervising commission and audited by the comptroller, and if such work is done or materials furnished in pursuance of contract, such payments shall not at any time exceed eighty per centum of the value thereof, until such time as the contract is completed. In case the appropriations are at any time exhausted and the work thereby necessarily suspended before the completion of the contract therefor, it shall be entirely in the discretion of the commission to grant the contractor or contractors such allowances as the commission may deem just and equitable; and if such suspension be for more than two months, the contractor may, in the discretion of the commission, be paid in full any proportional amount of the contract price for such materials furnished or work done up to the date of such suspension, as shall be shown by the estimates and certificates made by the commissioner of the new capitol and approved by the commission; and the time within which the work under such contract is to be completed shall be extended for a time equal to the time during which the work is suspended.

Am'd by chap. 737 of 1895. Took effect May 23, 1895.

§ 10. Powers and duties of capitol commissioner.—The capitol commissioner shall be the architect and superintendent of all such works and by and with the consent of the commission shall have the supervision of the work of constructing the unfinished portion of the capitol and its approaches, shall see that the work is performed in accordance with the plans and specifications in pursuance of which any contract shall be made, and generally shall see that the interests of the State are fully protected.

Am'd by chap. 737 of 1895. Took effect May 23, 1895.

§ 11. Accounts.—The commission shall keep true and just accounts of all expenses and obligations incurred, which shall be made up and rendered to the comptroller monthly, and when audited and allowed by him, paid by the state treasurer on the warrant of the comptroller. The treasurer shall take proper receipts and vouchers therefor which shall be kept on file in his office.

Am'd by chap. 737 of 1895. Took effect May 23, 1895.

PUBLIC BUILDINGS LAW.

§ 2. There is hereby appropriated, out of any money in the treasury not otherwise appropriated, the sum of four hundred thousand dollars, or so much thereof as may be necessary, for the payment of the expenses of the commission, the salary and expenses of the capitol commissioner, and for continuing the work of constructing such portions of the capitol as the commission shall determine to have done by day's labor. Such money shall be payable by the treasurer on the warrant of the comptroller, on certificates of the commissioners of the new capitol, approved by the chairman and secretary of the capitol commission.

Chap. 787 of 1895.

ARTICLE II.

WASHINGTON'S HEADQUARTERS.

SECTION 20. Title to the premises.

21. Board of trustees.

22. Powers and duties.

23. Superintendent ; duties and compensation.

24. Trustee or superintendent not to be interested in contract.

25. Account ; annual report.

§ 20. Title to the premises.—The title to the premises known as "Washington's headquarters," in the city of Newburgh, shall remain in the people of the state of New York.

§ 21. Board of trustees.—Such headquarters shall be managed by a board of trustees to be known as the board of trustees of Washington's headquarters, consisting of ten members, each of whom shall be appointed by the governor, by and with the advice and consent of the senate, and serve five years. The trustees shall be divided into five classes so that the term of two shall expire each year on the first of April. Meetings of the board shall be held annually on the first Tuesday of April, at which meeting a president, secretary and treasurer shall be appointed from among such trustees.

§ 22. Powers and duties.—The trustees shall have the care and management of the headquarters with the grounds belonging thereto and direct the expenditure of all moneys appropriated, subscribed or donated for their care or improvement and provide for the preservation thereof, and for the protection of all property therein belonging to the state. No debt or liability shall be incurred in excess of the funds in the hands of the trustees.

§ 23. Superintendent ; duties and compensation.—The trustees may appoint a superintendent who shall reside on the premises and keep the same open for visitors at all reasonable hours, and receive an annual salary not exceeding five hundred dollars, which, with five hundred dollars for repairs to the property and care of the grounds, shall be paid to the president of the board of trustees in equal semi-annual payments on the first day of April and October in each year by the treasurer of the state on the warrant of the comptroller.

PUBLIC BUILDINGS LAW.

§ 24. **Trustee or superintendent not to be interested in contract.**—No trustee or superintendent shall have any interest, direct or indirect, in any contract for material or labor provided pursuant to this article, and no trustee, president, secretary or treasurer shall receive any compensation for services rendered in connection with such headquarters.

§ 25. **Account ; annual report.**—The trustees shall keep an accurate account of their expenditures for the care and improvement of the property under their charge, and annually render to the comptroller, on or before the first day of December, a report and statement of all such expenditures duly verified by their president, accompanied by the vouchers therefor, and a general statement of the condition of the property.

ARTICLE III.

SENATE HOUSE AT KINGSTON.

SECTION 30. Senate house.

31. Powers and duties of trustees.

32. Keepers.

§ 30. **Senate house.**—The trustees of public buildings are charged with the care, custody and supervision of the property known as the senate house property situate at the city of Kingston in Ulster county.

§ 31. **Powers and duties of trustees.**—The trustees may make such repairs and improvements to the buildings and grounds as may be necessary for the proper preservation of the building in its original style, and the protection and ornamentation of the grounds connected therewith, and direct the expenditure of all moneys appropriated, subscribed or donated for the care or improvement of such senate house and grounds, and provide for the protection of all property belonging to this state deposited therein. They shall prescribe the duties of the keeper and appropriate rules and regulations for the care and superintendence of such buildings and property, and provide for water, fuel and light therefor.

§ 32. **Keeper.**—The trustees shall appoint some suitable person at Kingston as keeper of the building and grounds, who shall be in immediate charge thereof and exhibit them to visitors free of cost or charge of any kind. He shall receive an annual salary to be fixed by the trustees, not exceeding six hundred dollars.

ARTICLE IV.

NEW YORK STATE SOLDIERS AND SAILORS' HOME.

SECTION 40. Trustees.

41. Powers of trustees.

PUBLIC BUILDINGS LAW.

SECTION 43. Admission to home.

43. Transfer of inmates to state hospital.

44. Annual report.

45. Laws repealed.

46. When to take effect.

§ 40. **Trustees.**—The property heretofore conveyed to the state by the corporation known as the Grand Army of the Republic Soldiers' Home of New York, and all property heretofore or hereafter acquired by the state for the same purpose, shall continue to be known as the New York State Soldiers and Sailors' Home, and shall continue to be under the management and control of a board of trustees consisting of eleven members, of which the governor and attorney-general shall be ex-officio members; and the remaining nine members shall be reputable citizens of the state appointed by the governor, by and with the advice and consent of the senate, and each shall hold office for three years. No trustee shall receive any compensation for his services as such trustee or otherwise, except the trustee elected to act as secretary who may receive a reasonable annual compensation for his services, to be fixed by the board, with the approval of the comptroller, not exceeding the sum of two hundred and fifty dollars. The board shall annually elect by ballot a president, secretary, treasurer and executive committee, but the offices of secretary and treasurer may be held by one trustee or separately as the board may determine. The board shall be known as the board of trustees of the New York State Soldiers and Sailors' Home.

§ 41. **Powers of trustees.**—The board of trustees shall have possession of all property belonging to or constituting such home and may complete the buildings therein already commenced or hereafter to be erected, and keep them in readiness for occupation with any funds appropriated therefor or that may come into their hands for such purpose, and may pay any existing indebtedness of such corporation which shall be or might become a lien upon such property or any part thereof. The board may make contracts in its name, subject to the approval of the comptroller, for work and materials for the completion of the buildings on such property, the furnishing thereof and of supplies for use and consumption therein, but shall spend no money and incur no indebtedness for such purpose beyond the appropriation previously made therefor by the legislature. It may adopt rules and regulations, subject to like approval, specifying the duties of the officers of the home, the government of its inmates, fixing the terms and conditions of admission thereto and the cause and manner of expulsion therefrom. The board may require and take in its name any security by way of bond or otherwise from any person appointed or

PUBLIC BUILDINGS LAW.

elected by it, for the faithful performance of his duties, and for truly accounting for all moneys or property received by him, for or on account of the board of trustees or in the performance of such duties.

§ 42. **Admission to home.** — Every honorably discharged soldier or sailor who served in the army or navy of the United States during the late rebellion, who enlisted from the state of New York, or who shall have been a resident of this state for one year preceding his application for admission, and who shall need the aid or benefit of such home in consequence of physical disability or other cause within the scope of the regulations of the board, shall be entitled to admission thereto, subject to the conditions, limitations and penalties prescribed by the rules and regulations of the board.

§ 43. **Transfer of inmates to state hospital.** — Any soldier or sailor regularly admitted into the home found to be insane, may be transferred by an order of the president and secretary of the board of trustees and the superintendent of the home to any state hospital for the insane, there to remain at the expense of the home until legally discharged, and such expense shall be paid out of the maintenance fund of the home, at the same rate as is charged for the support of the county insane.

§ 44. **Annual report.** — Such board shall, annually, on or before January fifteenth, make to the legislature a detailed report of all its receipts and expenditures and of all its proceedings for the previous year, with full estimates for the coming year verified by the president and treasurer.

§ 45. **Laws repealed.** — Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

§ 46. **When to take effect.** — This chapter shall take effect on October first, eighteen hundred and ninety-three.

SCHEDULE OF LAWS REPEALED.

REVISED STATUTES		Sections
Part I, chapter 9, title 7.....		3.
LAWS OF	Chapter	Sections
1834.....	66.....	All.
1840.....	295.....	All.
1841.....	218.....	All.
1845.....	98.....	All.

PUBLIC BUILDINGS LAW.

LAWS OF	Chapter	Sections
1848.....	260.....	All.
1848.....	284.....	All.
1850.....	265.....	All.
1851.....	509.....	All.
1865.....	648.....	All.
1866.....	583.....	All.
1875.....	147.....	All.
1878.....	7.....	All.
1878.....	48.....	All.
1878.....	124.....	All.
1879.....	407.....	All.
1880.....	138.....	All.
1881.....	325.....	All.
1882.....	190.....	7.
1882.....	295.....	All.
1882.....	355.....	All.
1883.....	146.....	All.
1883.....	162.....	All.
1883.....	349.....	All.
1885.....	330.....	All.
1885.....	336.....	All.
1887.....	134.....	All.
1888.....	207.....	All.
1888.....	380.....	All.
1890.....	316.....	2, 3, 4, 5.
1891.....	206.....	2, 3, 4, 5.

INDEX TO PUBLIC BUILDINGS LAW.

	SECTION
Account of board of trustees	25
of capitol commissioner	10
Admission to New York State Soldiers and Sailors' Home.....	42
Annual report of board of trustees.....	25
trustees of New York State Soldiers and Sailors' Home	44
Appointment of capitol commissioner	6
Board of trustees of Washington's headquarters.....	21
powers and duties of	22
to keep account and make annual report.....	25
Capitol commissioner, accounts of.....	10
appointment of.....	6
powers and duties of	7
powers of, not to be delegated.....	9
undertaking of	6
Compensation of superintendent.....	23
Contracts, how awarded	8
Duties of board of trustees.....	22
of capitol commissioner	7
of superintendent.....	4, 23
of trustees	3
of trustees of public buildings..	31
Employes, political test as to.....	9
Grand Army of the Republic, room for	5
Inspector of capitol	11
Keeper of senate house at Kingston.....	32
Laws repealed by public buildings law.....	45
New York State Soldiers and Sailors' Home, admission to.....	42
transfer of inmates of, to state hospital.....	43
trustees of	40
political test as to employes.....	9
Powers of board of trustees	22
of capitol commissioner.....	7
not to be delegated.....	9
of superintendent.....	4
of trustees.....	3
of New York State Soldiers and Sailors' Home.....	41
of public buildings.....	31

INDEX.

	SECTION
Public buildings law, when to take effect	46
trustees of	2
Room for the Grand Army of the Republic.....	5
Senate house at Kingston.....	30
keeper of	32
Short title.....	1
Superintendent, duties and compensation.....	23
not to be interested in contract.....	24
Washington's headquarters	23
powers and duties of	4
Transfer of inmates of New York Soldiers and Sailors' Home to state hospital.....	43
Trustee not to be interested in contract	24
of New York State Soldiers and Sailors' Home.....	40
annual report of.....	44
powers of	41
of public buildings.....	2
of public buildings, powers and duties of.....	3, 31
Undertaking of capitol commissioner.....	6
Washington's headquarters, board of trustees of	21
title to	20

CHAP. 685.

AN ACT in relation to municipal corporations, constituting chapter seventeen of the general laws.

APPROVED by the Governor May 18, 1892. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

CHAPTER XVII OF THE GENERAL LAWS.

THE GENERAL MUNICIPAL LAW.

- SECTION 1. Short title and use of terms.
2. Limitation of indebtedness.
 3. Investigation of expenditures of towns and villages.
 4. Temporary loans.
 5. Funded debt.
 6. Payment of municipal bonds.
 7. Funding of bonded debts.
 8. Issuance of municipal bonds.
 9. Registry of municipal bonds.
 10. Conversion of coupon into registered bonds.
 11. Defects not invalidating municipal bonds.
 12. Municipal taxes of railroads payable to county treasurer.
 13. Abolition of office of railroad commissioners.
 14. Appointment of railroad commissioners.
 15. Oath and undertaking of commissioners.
 16. Exchange or sale of railroad stock and bonds.
 17. Annual report of commissioners and payment of bonds.
 18. Accounts and loans by commissioners.
 19. Reissue of lost or destroyed bonds.
 20. Payment of judgments against municipal corporations.
 21. Liability for damages by mobs and riots
 22. Condemnation of real property.
 23. Insurance of property.
 24. Free public libraries.
 25. Acquisition of lands for erection of monuments.
 26. Leases of public buildings to grand army posts.
 27. Discrimination against non-residents.
 28. Laws repealed.
 29. When to take effect.

SECTION 1. Short title and use of terms.—This chapter shall be known as the general municipal law.

The term, municipal corporation, as used in this chapter, includes only a county, town, city and village. The term, governing board,

GENERAL MUNICIPAL LAW.

includes the board of supervisors of a county, the town board of a town, the common council of a city, and the board of trustees of a village.

§ 2. Limitation of indebtedness.—No county containing a city of more than one hundred thousand inhabitants, nor any such city shall contract any debt, the amount of which, exclusive of its outstanding debt shall exceed a sum equal to five per centum of the aggregate valuation of the real property within its bounds, as assessed for state and county purposes upon the then last corrected assessment-roll, nor shall it contract any such debt if the amount thereof inclusive of its outstanding debts shall exceed a sum equal to ten per centum of such valuation. This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes of amounts actually contained or to be contained in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes. Nor shall this section be construed to prevent the issuing of bonds to provide for the supply of water, but the term of the bonds issued to provide for the supply of water shall not exceed twenty years, and the sinking fund shall be created on the issuing of said bonds for their redemption by raising annually a sum which will produce an amount equal to the amount of the principal of said sum and interest of said bonds at their maturity. This section shall not apply to debts contracted for the purpose of retiring or paying any existing indebtedness pursuant to the provisions of this chapter.

Am'd by chap. 349 of 1898, which repeals all acts and parts of acts inconsistent therewith.

§ 3. Investigation of expenditures of towns and villages.—If twenty-five freeholders in any town or village shall present to a justice of the supreme court of the judicial district in which such town or village is situated, an affidavit, stating that they are freeholders and have paid taxes on real property within such town or village within one year, that they have reason to believe that the moneys of such town or village are being unlawfully or corruptly expended, and the grounds of their belief, such justice, upon ten days' notice to the supervisor, and the officers of the town disbursing the funds to which such moneys belong, or the trustees and treasurer of the village, shall make a summary investigation into the financial affairs of such town or village, and the accounts of such officers, and, in his discretion, may appoint experts to make such investigation, and may cause the result thereof to be published in such manner as he may deem proper.

GENERAL MUNICIPAL LAW.

The costs incurred in such investigation shall be taxed by the justice, and paid, upon his order, by the officers whose expenditures are investigated, if the facts in such affidavit be substantially proved, and otherwise, by the freeholders making such affidavit. If such justice shall be satisfied that any of the moneys of such town or village are being unlawfully or corruptly expended, or are being appropriated for purposes to which they are not properly applicable, or are improvidently squandered or wasted, he shall forthwith grant an order restraining such unlawful or corrupt expenditure, or such other improper use of such moneys.

§ 4. **Temporary loans.**—Moneys shall not be borrowed by a municipal corporation on temporary loan, except in anticipation of the taxes of the current fiscal year, and for the purposes for which such taxes are levied, and shall not be in excess of the amount of such taxes. Such loans shall always be made payable within eight months, and in no case shall interest run on any such loan after such taxes are paid into the treasury of the corporation.

§ 5. **Funded debt.**—A funded debt shall not be contracted by a municipal corporation, except for a specific object, expressly stated in the ordinance or resolution proposing it; nor unless such ordinance or resolution shall be passed by a two-third vote of all the members elected to the board or council adopting it, or submitted to, and approved by the electors of the town or county, or taxpayers of the village or city when required by law. Such ordinance or resolution shall provide for raising annually, by tax, a sum sufficient to pay the interest and the principal, as the same shall become due.

§ 6. **Payment of municipal bonds.**—Where the bonds of a municipal corporation have been lawfully issued, and the payment of the principal or interest thereof shall not have been otherwise paid or provided for, the same shall be a charge upon such corporation, and shall be levied and assessed, collected and paid the same as other debts and charges. When for any reason any portion of the principal or interest due upon such bonds shall not have been paid, the same shall be assessed, levied and collected at the first assessment and collection of taxes by such corporation after such omission.

§ 7. **Funded and bonded debts.**—The bonded indebtedness of a municipal corporation, including interest due or unpaid, or any part thereof, may be paid up or retired by the issue of new substituted bonds for like amounts by the board of supervisors or supervisor, board, council or officers having in charge the payment of such bonds. Such new bonds shall only be issued when the existing bonds can be retired by the substitution of the new bonds therefor, or can be paid up by money realized by the sale of such new bonds. Where such

GENERAL MUNICIPAL LAW.

bonded indebtedness shall become due within two years from the issue of such new bonds, such new bonds may be issued and sold to provide money in advance to pay up such existing bonds when they shall become due. Such new bonds shall contain a recital that they are issued pursuant to this section, which recital shall be conclusive evidence of their validity and of the regularity of the issue; shall be made payable not less than one or more than thirty years from their date; shall bear date and draw interest from the date of the payment of the existing bonds, or the receipt of the money to pay the same, at not exceeding the rate of four per centum per annum, payable quarterly, semi-annually or annually; and an amount equal to not less than two per centum of the whole amount of such new bonds shall be payable each year after the issue thereof. Such new bonds shall be sold and negotiated at the best price obtainable, not less than their par value; shall be valid and binding on the municipal corporation issuing them; and until payable shall be exempt from taxation for town, county, municipal or state purposes. All bonds and coupons retired or paid shall be immediately canceled. A certificate shall be issued by the officer, board or body issuing such new bonds, stating the amount of existing bonds, and of the new bonds so issued, which shall be forthwith filed in the office of the county clerk. Except as provided in this section, new bonds shall not be issued in pursuance thereof, for bonds of a municipal corporation adjudged invalid by the final judgment of a competent court. A majority of the taxpayers of a town, voting at a general town meeting, or special town meeting duly called, may authorize the issue in pursuance of this section of new bonds for such invalid bonds, and each new bond so issued shall contain substantially the following recital: "The issue of this bond is duly authorized by a vote of the taxpayers of the said town;" which shall be conclusive evidence of such fact. The payment, adjustment or compromise of a part of the bonded indebtedness of a municipal corporation shall not be deemed an admission of the validity or a recognition of any part of the bonded indebtedness of such municipal corporation not paid, adjusted or compromised.

Am'd by chap. 466 of 1893. This chapter superseded the amendment of chap. 122 of 1893.

§ 8. Issuance of municipal bonds.—Each bond issued by a municipal corporation shall be signed by each officer issuing the same, with the designation of his office; and the interest coupons attached thereto, if any, shall be signed by one of their number. Each such bond shall state the place of payment and, if no coupons are attached thereto, the name of the payee.

GENERAL MUNICIPAL LAW.

§ 9. Registry of municipal bonds.—Each municipal corporation shall keep in the office of its clerk suitable books, in which shall be entered a full description of the amount, rate of interest, class, number, date of issue, pursuant to what law, and maturity of all bonds issued by any of its officers, and, if such statement is not already entered, of all bonds converted from coupon into registered bonds. A bond to which no coupons are attached may be registered, at the request of the payee, in the books so kept in the office of such clerk, and a certificate of such registry shall be indorsed upon the bond by such clerk, and attested by his seal, if he has one. The clerk shall be entitled to a fee of twenty-five cents for each bond so registered. The principal and interest of a registered municipal bond shall be payable only to the payee, his legal representatives, successors or assigns, and shall be transferable only upon presentation to such clerk, with a written assignment duly acknowledged or approved. The name of the assignee shall be entered upon such bond so transferred and the books so kept in the office of the clerk. It shall be the duty of the clerk or other officer having charge of the office where such registry is kept, to transmit a statement of such indebtedness to the clerk of the board of supervisors of the county in which such office is situated, annually, on or before the first day of November.

Am'd by chap. 350 of 1895. Took effect May 8, 1895.

§ 10. Conversion of coupon into registered bonds.—When the owner of coupon bonds of a municipal corporation shall present any such bonds to the officers who issued the same, or their successors, with a written request for their conversion into registered bonds, such officer shall cut off and destroy the coupons and stamp, print or write upon each of the bonds a statement, properly dated, of the amount and value of such coupons, and that the interest, at the rate and on the date, as was provided by the coupons, as well as the principal, is to be paid to such owner, his legal representatives, successors or assigns, at a place therein stated, which shall be the place stated in the coupons, unless changed with the written consent of the owner; and thereupon such bonds may be registered in the office of the clerk of the municipal corporation. This section shall not apply where provision is otherwise made by law or local ordinance, for the conversion or exchange of coupons for registered bonds.

§ 11. Defects not invalidating municipal bonds.—When the bonds of a municipal corporation have been issued and sold by the proper authorities, and the time fixed for their maturity shall be for a longer period than provided by the law under which they were issued, a variance of not exceeding sixty days shall not affect their validity.

§ 12. Municipal taxes of railroads payable to the county treasurer.—If a town, village or city has outstanding unpaid bonds, issued, or substituted for bonds issued, to aid in the construction of a railroad therein, so much of all taxes as shall be necessary to take up

GENERAL MUNICIPAL LAW.

such bonds, except school district and highway taxes, collected on the assessed valuation of such railroad in such municipal corporation, shall be paid over to the treasurer of the county in which the municipal corporation is located. Such treasurer shall purchase with such moneys of any town, village or city, such bonds, when they can be purchased at or below par, and shall immediately cancel them in the presence of the county judge. If such bonds cannot be purchased at or below par, such treasurer shall invest such money in the bonds of the United States, of the state of New York, or of any town or village or city of such state, issued pursuant to law; and shall hold such bonds as a sinking fund for the redemption and payment of such outstanding railroad aid bonds. If a county treasurer shall unreasonably neglect to comply with this section, any taxpayer of the town, village or city having so issued its bonds may apply to the county judge of the county in which such municipal corporation is situated, for an order compelling such treasurer to execute the provisions of this section. The county treasurer of any county in which one or more towns therein shall have issued bonds for railroad purposes, shall when directed by the board of supervisors or county judge of the county, execute and file in the office of the county clerk an undertaking, with not less than two sureties, approved by such board or judge, to the effect that he will faithfully perform his duties pursuant to this section. The annual report of a county treasurer shall fully state, under the head of "railroad sinking fund," the name and character of all such investments made by him or his predecessors, and the condition of such fund.

Am'd by chap. 466 of 1898.

§ 13. Abolition of office of railroad commissioners.—The board of supervisors of any county may, upon the application of the auditing board of any municipal corporation therein, by resolution, abolish the office of railroad commissioners of such municipal corporation, and direct the manner of the transfer of their duties to the supervisor of the town, or the treasurer of the municipal corporation other than a town, and upon his compliance with such directions, such transferee shall be vested with all the powers conferred upon such railroad commissioners and subject to all the duties imposed upon them.

§ 14. Appointment of railroad commissioners.—The county judge of any county within which is a municipal corporation having or being entitled to have railroad commissioners, when this chapter shall take effect, and in which the duties imposed upon such commissioners are not fully performed, shall continue to appoint and

GENERAL MUNICIPAL LAW.

commission, upon the application of twenty freeholders within such corporation, three persons, who shall be freeholders and resident taxpayers therein, commissioners for the purpose of performing the duties and completing the business required of them pursuant to this chapter or any law. Such commissioners shall hold their office for five years, and until others are appointed by the county judge, unless their duties shall be sooner performed, or the office shall be abolished, who shall also, in like manner, fill any vacancies that may exist therein. Such commissioners shall each receive the sum of three dollars per day for each day actually engaged in the discharge of their duties, and the necessary disbursements to be audited and paid by the usual auditing and disbursing officers of such municipal corporation. A majority of such commissioners, at a meeting of which all have notice, shall constitute a quorum.

§ 15. Oath and undertaking of commissioners.—Before entering upon their duties such commissioners shall take the constitutional oath of office, and make and file with the county clerk of their county, their joint and several undertaking, with two or more sureties to be approved by the county judge of their county, to the effect that they will faithfully discharge their duties as such commissioners and truly keep, pay over and account for all moneys belonging to such corporation coming into their hands.

§ 16. Exchange or sale of railroad stock and bonds.—The commissioners or officers of a municipal corporation, having the lawful charge and control of any railroad stock or bonds, for or in payment of which the bonds of such municipal corporation have been lawfully issued in aid of such railroad corporation, may exchange the stock or bonds of such railroad corporation for and in payment of such bonds, or the new substituted bonds of such municipal corporation, when such exchange can be made for not less than the par value of the stocks or bonds so held by them. If they cannot make such exchange they may sell such stocks or bonds at not less than par; but they may, on the application and with the approval of the governing board of the municipal corporation owning such stock and bonds, exchange, sell or dispose of such stock or bonds, at the best price and upon the best terms obtainable, for the municipal corporation they represent, and shall execute to the purchaser the necessary transfers therefor. All moneys received for any stock or bonds shall only be applied to the payment and extinguishment of the bonds of the municipal corporation, lawfully issued in aid of any such railroad, or substituted therefor; except that if the bonds so issued or substituted have all been paid, or the moneys so realized shall be more than sufficient to pay them in full, and all the costs and expenses of the sale, such proceeds or bal-

GENERAL MUNICIPAL LAW.

ance thereof shall be paid by the officers making the sale, to the supervisor of the town, or the treasurer of the municipal corporation, and applied to such lawful uses as the governing board of the municipal corporation, entitled to the same, may direct. The provisions of this section shall apply to all such commissioners or officers of a municipal corporation elected or appointed or acting under the provisions of any special act, and the authority hereby conferred shall not be limited by the provisions of any such special act.

Am'd by chap. 490 of 1893.

§ 17. Annual report of commissioners and payment of bonds.—The commissioners of a municipal corporation, having in charge the moneys received and collected, and who are responsible for the payment of the interest of the bonds lawfully issued by such municipal corporation, in aid of railroads, shall annually report to the governing board of the municipal corporation, the total amount of the municipal indebtedness of the municipal corporation they represent, upon such bonds or such new bonds substituted therefor, the date of the bonds and when payable, the rate of interest thereon, the acts under which they were issued, the amount of principal and interest that will become due thereon before the next annual tax levy and collection of taxes for the next succeeding year, and the amount in their hands applicable to the payment of the principal or interest thereon. Each year such governing board shall levy and collect of the municipal corporation sufficient money to pay such principal and interest, as the same shall become due and payable. When collected, such moneys, with the unpaid sums on hand, shall be forthwith paid over to such commissioners, and applied by them to the purposes for which collected or held. When paid, such bonds shall be presented by such commissioners to the governing board of the municipal corporation, at least five days before the annual town meeting, village or city election, or meeting of the board of supervisors, next thereafter held, who shall cancel the same, and make and file a record thereof in the clerk's office of the municipal corporation, whose bonds were so paid or canceled.

Am'd by chap. 466 of 1893, which expressly repealed chap. 330 of 1892.

§ 18. Accounts and loans by commissioners.—Such commissioners shall present to the auditing board of the municipal corporation they represent, at each annual meeting of such board, a written statement or report, showing all their receipts and expenditures, with vouchers. They shall also loan on proper security or collaterals, or deposit in some solvent bank, or banking institutions, at the best rate of interest they can obtain, or invest in the bonds of the mu-

GENERAL MUNICIPAL LAW.

municipal corporation they represent, or in bonds of the state, or of any town, village, city or county therein, issued pursuant to law, or in the bonds of the United States, all moneys that shall come into their hands by virtue of their office, and not needed for current liabilities; and all earnings, profits or interest accruing from such loans, deposits or investments, shall be credited to the municipal corporation they represent, and accounted for in their annual settlement with the governing board thereof.

§ 19. Reissue of lost or destroyed bonds. — When any bonds lawfully issued by a municipal corporation in aid of any railroad, or in substitution for bonds so issued, shall be lost or destroyed, such commissioners may issue new bonds in the place of the ones so lost or destroyed, at the same rate of interest, and to become payable at the same time, upon the owner furnishing satisfactory proof, by affidavit, of such ownership, and loss or destruction, and a written indemnity, with at least two sureties, approved as to form and sufficiency by the county judge of the county in which such municipal corporation is situated. Every new bond so issued shall state upon its face the number and denomination of the bond for which it is issued, that it is issued in the place of such bond claimed to have been lost or destroyed, that it is issued as a duplicate thereof, and that but one is to be paid. Such affidavit and indemnity, duly indorsed, shall be immediately filed in the county clerk's office.

§ 20. Payment of judgments against municipal corporation. — When a final judgment for a sum of money shall be recovered against a municipal corporation, and the execution thereof shall not be stayed pursuant to law, or the time for such stay shall have expired, the treasurer or other financial officer of such corporation having sufficient moneys in his hands belonging to the corporation not otherwise specifically appropriated, shall pay such judgment upon the production of a certified copy of the docket thereof.

§ 21. Liability for damages by mobs and riots. — A city or county shall be liable to a person whose property is destroyed or injured therein by a mob or riot, for the damages sustained thereby, if the consent or negligence of such person did not contribute to such destruction or injury, and such person shall have used all reasonable diligence to prevent such damage, shall have notified the mayor of the city, or sheriff of the county, of a threat or attempt to destroy or injure his property by a mob or riot, immediately upon acquiring such knowledge, and shall bring an action therefor within three months after such damages were sustained. A mayor or sheriff receiving notification of a threat or attempt to destroy or injure property by a mob or riot shall take all lawful means to protect such property; and

GENERAL MUNICIPAL LAW.

if he shall neglect or refuse, the person whose property shall be destroyed or injured, may elect to bring his action for damages against such officer instead of the city, or county.

§ 22. **Condemnation of real property.** — A municipal corporation authorized by law to take and hold real property for the uses and purposes of the corporation, may, if it is unable to agree with the owners for the purchase thereof, acquire title to such property by condemnation.

§ 23. **Insurance of property.** — Public officers having by law the care and custody of the public buildings and other property of a municipal corporation, may insure the same at the expense and for the benefit of such corporation.

§ 24. **Free public libraries.**—Any municipal corporation may establish and maintain a free public library or museum in accordance with the library provisions of the university law, being chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-two.

Am'd by ch. 576 of 1896. In effect May 12, 1896.

§ 25. **Acquisition of lands for erection of monuments.**—The governing board of a village or town, or the trustees of a monument association, may acquire not to exceed three acres of land, for the ereo-

GENERAL MUNICIPAL LAW.

tion of a soldiers' monument, or a monument or other structure as a memorial of some distinguishing or important event in the history of the state or nation, and for laying out such lands as a public park or square, if such lands are vacant or have buildings thereon not exceeding two thousand five hundred dollars in value, and if a judge of the county, or a justice of the supreme court of the district, in which such memorial is to be erected, shall give his written approval of the acquisition of such lands for such purpose.

§ 26. **Leases of public buildings to Grand Army posts.**—A municipal corporation may lease, for not exceeding five years, to a post or posts of the Grand Army of the Republic, or other veteran organization of honorably discharged union soldiers, sailors or marines, a public building or part thereof, belonging to such municipal corporation, except school-houses in actual use as such, without expense, or at a nominal rent, fixed by the board or council having charge of such buildings.

§ 27. **Discrimination against non-residents.**—Any restriction or regulation imposed by the governing board of a municipal corporation upon the inhabitants of any other municipal corporation within this state, carrying on or desiring to carry on any lawful business or calling within the limits thereof which shall not be necessary for the proper regulation of such trade, business or calling, and shall not apply to citizens of all parts of the state alike, except ordinances or regulations in reference to traveling circuses, shows and exhibitions, shall be void.

§ 28. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

§ 29. **When to take effect.**—This chapter shall take effect on October 1, 1892.

SCHEDULE OF LAWS REPEALED.

LAWS OF	Chapter	Sections
1847	294.....	All.
1853.....	603.....	All.
1855.....	428.....	All.
1869.....	907.....	All.
1870.....	300	All.
1871.....	283.....	All.
1871.....	537.....	All.
1871.....	925.....	All.
1872.....	458.....	All.
1873.....	720.....	All.
1875.....	328.....	All.

GENERAL MUNICIPAL LAW.

LAWS OF	Chapter	Sections.
1875.....	421.....	All.
1875.....	585.....	All.
1877.....	320.....	All.
1877.....	349.....	All.
1878.....	75.....	All.
1878.....	212.....	All.
1878.....	317.....	All.
1879.....	62.....	All.
1879.....	307.....	All.
1879.....	417.....	All.
1880.....	12.....	All.
1880.....	21.....	All.
1880.....	204.....	All.
1881.....	226.....	All.
1881.....	308.....	All.
1881.....	522.....	All.
1882.....	293.....	All.
1883.....	124.....	All.
1883.....	453.....	All.
1884.....	244.....	All.
1885.....	426.....	All.
1885.....	479.....	All.
1886.....	278.....	All.
1886.....	316.....	All.
1886.....	644.....	All.
1887.....	282.....	All.
1888.....	62.....	All.
1888.....	328.....	All.
1889.....	526.....	All.

GENERAL MUNICIPAL LAW.

LAWS OF 1895, CHAP. 792.

AN ACT for the protection of bona fide purchasers and holders of coupon bonds and of municipal corporations against misfeasance, malfeasance or negligence of public officers.

BECAME a law May 27, 1895, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Any bona fide purchaser and holder of any bonds or other obligations for the payment of money payable to bearer and transferable by delivery, and any such purchaser and holder of any interest bearing coupon or obligation originally attached to such bonds, which said bonds or coupon shall have been issued or put in circulation by means of the misfeasance, malfeasance, or negligence of any public officer, of any of the civil or municipal divisions of this State, whose right of recovery or cause of action upon any such bond or coupon has been or shall be determined by the judgment of a court of competent jurisdiction in any suit or action, or who has been or shall be a privy to such suit or action, may within three years after the determination of said right of recovery and cause of action begin an action against such officer, and recover all damages which said purchaser, holder or privy shall have suffered because of the misfeasance, malfeasance or negligence of such public officer.

§ 2. Any municipal corporation within this State, or any civil division of this State, which has been or shall be compelled to pay any negotiable bond, or any coupon originally attached to such bond, by the judgment of a court of competent jurisdiction, because of the misfeasance, malfeasance or negligence of any public officer or agent of such municipal corporation or civil division, may within three years from the time when such payment shall have been compelled as aforesaid, begin an action against any such officer in any court of competent jurisdiction and recover the amount so paid with interest from the time of such payment.

§ 3. No limitation of the time for commencing an action shall affect any of the actions hereinbefore mentioned except as herein provided, and in such action an order of arrest and an execution against the person of the defendant may be issued in the manner and form provided by the code of civil procedure against a person who shall have wrongfully misappropriated money held by him in a fiduciary capacity.

GENERAL MUNICIPAL LAW.

§ 4. In any suit or action upon any coupon or coupons hereinbefore mentioned, or upon any bonds hereinbefore mentioned, or to recover any damages hereinbefore mentioned, any party to such action shall have and is hereby granted a right of appeal, to the general term or appellate division of the supreme court from the judgment of any trial court, or to the court of appeals from any judgment of the general term or of the appellate division of the supreme court, although the amount in controversy in such action has been or may be, less than five hundred dollars. Appeals from any inferior court to any appellate court, including an appeal to the court of appeals although the amount in controversy may be less than five hundred dollars, from any judgment in any suit or action to recover against any municipal corporation or civil division of this State upon any negotiable bonds or upon any coupon originally attached thereto, issued or put in circulation by the agents or officers of such municipal corporations or civil division of this State, may be taken by any person who has been or shall be bound as a privy by such judgment within sixty days after such privy shall have been served by any of the parties to such civil action, with a copy of the said judgment and with a written notice of the entry thereof, and said appeal may be taken in the name of such party without entering an order of substitution as such party by said person so bound as a privy, upon his giving the security and serving the notices of appeal prescribed by the code of civil procedure concerning an appeal by a party to such an action, and also upon giving to the party in whose name such an appeal is taken an undertaking with two sufficient sureties conditioned in the penal sum of five hundred dollars, to save such party to such action in whose name such appeal shall be taken harmless of and from all costs and disbursements which may be recovered against him upon such appeal, which said undertaking shall be approved as to its form and as to the sufficiency of the sureties thereon by justices of the supreme court. Said appeal when so taken by said privy shall be conducted and determined in the same manner as if taken by said party of the said action, except as herein otherwise provided.

§ 5. This act shall take effect immediately.

INDEX TO GENERAL MUNICIPAL LAW.

	SECTION
Abolition of office of railroad commissioner.....	13
Accounts of railroad commissioners.....	18
Acquisition of lands for erection of monuments.....	25
Annual report of railroad commissioners.....	17
Appointment of railroad commissioner.....	14
Bonded debts, funding of	7
Condemnation of real property	22
Conversion of coupon into registered bonds.....	10
County treasurer, municipal taxes of railroads payable to.....	12
Coupon bonds, conversion of, into registered bonds.....	10
Defects not invalidating municipal bonds.....	11
Discrimination against non-residents	27
Exchange of railroad bonds.....	16
stock	16
Expenditures of towns and villages, investigation of.....	3
Free public libraries.....	24
Funded debt by municipal corporations.....	5
Funding of bonded debts.....	7
General municipal law, when to take effect.....	28
Grand army posts, leases of public buildings to.....	26
Indebtedness, limitation of.....	2
Insurance of property.....	23
Investigation of expenditures of towns and villages.....	3
Issuance of municipal bonds.....	8
Judgment against municipal corporations, payment of.....	20
Lands for erection of monuments, acquisition of.....	25
Laws repealed	28
Leases of public buildings to grand army posts	26
Liability of municipal corporation for damages by mobs and riots,	21
Limitation of indebtedness.....	2
Loans by railroad commissioners.....	18
Mobs, liability for damages by.....	21
Monuments, acquisition of lands for erection of.....	25
Municipal bonds, defects not invalidating.....	11
issuance of	8
payment of.....	6

INDEX.

	SECTION
Municipal bonds, registry of.....	9
corporation, funded debt by	5
liability of, for damages by mobs and riots	21
payment of judgments against.....	20
temporary loans to.....	4
taxes of railroads payable to county treasurer.....	12
Non-residents, discrimination against.....	27
Oath of railroad commissioners.....	15
Payment of judgments against municipal corporation.....	20
of municipal bonds	6
of railroad bonds.....	17
Property, insurance of	23
Public buildings, leases of, to grand army posts.....	26
libraries, free.....	24
Railroad bonds, exchange of	16
lost or destroyed, reissue of.....	19
payment of.....	17
sale of.....	16
commissioner, abolition of office of.....	13
annual report of	17
appointment of	14
counsel	18
loans by.....	18
oath of	15
undertaking of	15
stock exchange of.....	16
sale of	16
Railroads, municipal taxes of, payable to county treasurer	12
Real property, condemnation of.....	22
Registered bonds, conversion of coupon into ..	10
Registry of municipal bonds	9
Reissue of lost or destroyed railroad bonds	19
Riots, liability for damages by.....	21
Sale of railroad bonds	16
stock.....	16
Short title	1
Temporary loans to municipal corporations.....	4
Terms, use of.....	1
Towns, investigation of expenditures of.....	3
Undertaking of railroad commissioners.....	15
Use of terms.....	1
Villages, investigation of expenditures of.....	3

APPENDIX.

CHAP. 686.

relation to counties, constituting chapter eighteen of the general laws.

the Governor May 18, 1892. Passed, three-fifths being present.
*of the State of New York, represented in Senate and
enact as follows:*

CHAPTER XVIII OF THE GENERAL LAWS.

THE COUNTY LAW.

Counties as corporations. (§§ 1-4.)
Boards of supervisors. (§§ 10-38.)
Members of boards of supervisors. (§§ 50-54.)
Powers of boards of supervisors relating to highways and bridges.
(§§ 60-78.)
County jails. (§§ 90-103.)
County gaols. (§§ 110-126.)
County treasurers. (§§ 140-149.)
County clerks. (§§ 160-165.)
Sheriffs and coroners. (§§ 180-190.)
District attorneys. (§§ 200-204.)
Superintendents of the poor. (§§ 210-211.)
County judge, surrogate, special county judge, special surrogate and
justice of sessions. (§§ 220-228.)
Miscellaneous. (§§ 230-239.)

ARTICLE I.

COUNTIES AS CORPORATIONS.

Short title.
County a municipal corporation.
Powers and contracts in corporate name.
Disposition of property, and apportionment of debts on alteration of
boundary.

Short title.—This chapter shall be known as the
but shall not apply to the county of New York.

§ 2. **County a municipal corporation.**—A county is a municipal corporation, comprising the inhabitants within its boundaries and formed for the purpose of exercising the powers and discharging the duties of local government, and the administration of public affairs conferred upon it by law.

§ 3. **Actions and contracts in corporate name.**—An action or special proceeding for or against a county, or for its benefit, or upon a contract lawfully made with it, or with any of its officers or agents authorized to contract in its behalf, or to enforce any liability created, or duty enjoined upon it, or upon any of its officers or agents for which it is liable, or to recover damages for any injury to any property or rights for which it is liable, shall be in the name of the county. All contracts or conveyances, by or in behalf of, or of a county, shall be deemed to be in the name of the county, whether so stated or not in the contract or conveyance.

§ 4. **Disposition of property and apportionment of debts and alteration of boundary.**—When a county is divided or its boundary changed, its real property shall become the property of the county, within whose limits it lies after the change. The personal property and debts of such county, shall be apportioned between the counties interested, by the supervisors thereof, or by the committee of their respective boards appointed for that purpose, subject to the approval of such boards; and the debts shall be charged on each county, according to such apportionment.

ARTICLE II.

BOARDS OF SUPERVISORS.

SECTION 10. Meeting and organization of boards of supervisors.

11. Penalty for neglect.
12. General powers.
13. Limitation of credit.
14. Resolutions authorizing issue of obligations.
15. Legalization of informal acts.
16. Correction of assessments, and returning and refunding of ill taxes.
17. Powers, how exercised.
18. Printing and distribution of proceedings of board.
19. Designation of newspapers for publication of session laws.
20. Publication of session laws and concurrent resolutions.
21. Compensation.
22. Election notices and official canvass.
23. Compensation of supervisors.
24. Form and presentation of accounts against the county.
25. Additional requirements.
26. County records.

Examination of witnesses and officers.
 Committee of board.
 Adjournment.
 Planning and enforcement of undertaking.
 Location of county buildings.
 Proceedings on petition.
 Now submitted to vote.
 Alteration and erection of towns.
 First election in new town.
 Establishment of disputed town lines.
 Roads in districts outside of incorporated villages.
 Soldiers' monuments.

Meeting and organization of boards of supervisors.—
 Supervisors of the cities and towns in each county, when law-
 fully organized, shall be the board of supervisors of the county. They
 shall meet annually, at such time and place as they may fix, and may
 call special meetings at the call of the clerk, on the written request
 of a majority of the board, and whenever required by law. A
 majority of the board shall constitute a quorum. They may adjourn
 from time to time, and their meetings shall be public. At the an-
 nual meeting they shall choose one of their number chairman for
 the year. In his absence at any meeting they shall choose
 a temporary chairman to serve during such absence. They shall ap-
 point a clerk to serve during their pleasure, and until his successor
 is appointed, and shall fix his compensation. They may compel the
 attendance of absent members at their meetings, make rules for the
 conduct of their proceedings, and impose and enforce penalties for
 the violation thereof, not exceeding fifty dollars for each offense.

Penalty for neglect.—If any supervisor shall refuse or
 neglect to perform any of the duties which are or shall be required
 of him by law, as a member of the board of supervisors, he shall
 for each offense forfeit the sum of two hundred and fifty dol-
 lars to the county. For a refusal or neglect to perform any other
 duty required of him by law, he shall for every such offense forfeit
 the same to the town.

General powers.—The board of supervisors shall :
 Have the care and custody of the corporate property of the
 county;
 Audit all accounts and charges against the county,
 and when the same become due, during the ensuing year, and direct the rais-
 ing of money necessary to defray them in full.
 Direct the raising of such sums in each town as shall
 be necessary to pay its town charges.
 Direct to be assessed, levied and collected, such other assess-

ments and taxes as shall be required of them by any law of the state.

5. Fix the salaries and compensation of county treasurers, district attorneys and superintendents of the poor of their county, which shall be a county charge, and not be changed during the term of any such officer; and prescribe the mode of appointment, and fix the number, grade and pay of the clerks, assistants and employes in such offices, when not otherwise fixed by law, which shall be a county charge.

6. Borrow money when they deem it necessary, for the erection of county buildings, and for the purchase of sites therefor, on the credit of the county, and for the funding of any debt of the county not represented by bonds, and issue county obligations therefor, and for other lawful county uses and purposes; and authorize a town in their county to borrow money for town uses and purposes on its credit, and issue its obligations therefor, when, and in the manner, authorized by law.

7. Make such laws and regulations as they may deem necessary for the destruction of wild and noxious animals and weeds, within the county.

8. Provide for the protection and preservation, subject to the laws of the state, of wild animals, birds and game, and fish and shell-fish, within the county; and prescribe and enforce the collection of penalties for the violation thereof.

9. Divide any school commissioner's district within the county which contains more than two hundred school districts, and erect therefrom an additional school commissioner's district, and when such district shall have been formed, a school commissioner for the district shall be elected in the manner provided by law for the election of school commissioners.

10. Fix and regulate the time of opening and closing the county offices daily, except Sundays and holidays, where such time is not fixed by law.

11. Contract, at such times and upon such terms as the board may by resolution determine, with the authorities of any other county for the reception into the penitentiary of such county, and the custody and employment at hard labor therein, of any person convicted within their county of any offense, other than a felony, and sentenced to imprisonment in a county jail, or penitentiary, for a term exceeding sixty days.

12. Cause an action to be brought upon the undertaking of any county officer, whenever a breach thereof shall occur.

13. Purchase, lease, or otherwise acquire, for the use of the county,

necessary real property for court-houses, jails, alms-houses, asylums and other county buildings, and for other county uses and purposes; and erect, alter, repair, or construct, any necessary buildings or other improvements thereon for necessary county use, and cause to be levied, collected and paid, all such sums of money as they shall deem necessary therefor; and sell, lease or apply to other county use, the sites and buildings, when a site is changed; and if sold, apply the proceeds to the payment for new sites, buildings and improvements.

14. To make one or more jury districts and to make such regulations in respect to the holding of the terms of courts as shall be necessary by reason of such change.

§ 13. **Limitation of credit.**—An issue of town or county obligations shall not be authorized when such issue, with the amounts issued and outstanding under any previous or other authority of the board, shall exceed ten per centum of the assessed valuation of the real estate of such town or county, as it shall appear on the last assessment-rolls thereof, unless by the assent of a majority of the electors of such town or county, whose credit is proposed to be given, voting on the question at a regular town meeting of such town, or an annual election in such county; but in no case shall the amount of such town or county obligations, issued and outstanding, exceed one-third of such assessed valuation. This section shall not include any case where special authority has been given by the legislature to issue such obligations in excess of the amounts herein authorized.

Am'd by chap. 251 of 1893.

§ 14. **Resolutions authorizing issue of obligations.**—Every resolution of any such board, authorizing the issue of such obligations, shall specify the form thereof, the place of payment, in annual installments or otherwise, within a period not exceeding thirty years from the date of such obligation, and the rate of interest to be paid thereon, not exceeding the legal rate; and no such obligation shall be sold for less than par. Such resolution shall also contain a provision requiring adequate security to be given by the officer, or board of officers authorized to issue such obligations, for the faithful performance of his or their duty in issuing the same, and the lawful application of the funds arising therefrom, and of the funds which may be raised by tax for the payment thereof, which may come into their hands.

§ 15. **Legalization of informal acts.**—Any such board may, by a two-thirds vote of all its members, legalize the informal acts of any town meeting or village election within such county, and the regular acts of any one or more town or village officers, performed in good faith, and within the scope of their authority.

§ 16. Correction of assessments, and returning and refunding of illegal taxes.—Any such board may correct any manifest clerical or other error in any assessment or returns made by any or more town officers to such board, or which may, or shall hereafter properly come before such board for its action, confirmation or review; and cause to be refunded to any person the amount collected from him of any tax illegally or improperly assessed or levied, and upon the order of the county court, it shall refund any such tax. In raising the amount so refunded, or necessary to supply the deficiency caused by the correction of any error in such assessment, such board shall, in the same or next ensuing tax-levy, adjust and apportion such amount upon the property of the several towns and wards of the county as shall be just, taking into consideration the portion of the state, county, town and ward included therein, and the extent to which such town or ward has been benefited thereby.

Such board shall ascertain, fix and determine the amount to which any person or corporation is equitably entitled to receive back from any town, for taxes paid while the boundary line between towns was in dispute and cause the same to be levied and collected.

§ 17. Powers, how exercised.—Every act or resolution of such board shall require for its passage the assent of a majority of the supervisors elected, unless otherwise required by law. Every act or resolution of such board in the exercise of its legislative powers shall have a title prefixed, concisely expressing its contents, followed by a reference to the law or laws conferring the authority to pass the act or resolution, the number of votes, both for and against its passage, and, when the assent of any supervisor is required, that the assent was given; and all acts or resolutions so passed shall be numbered in the order of their passage, and certified by the chairman and clerk, and within six weeks after the close of each session, be published in the newspapers in the county appointed to publish the session laws of the legislature.

§ 18. Printing and distribution of proceedings of board.—Each board of supervisors shall cause as many copies of the proceedings of its session certified by its chairman and clerk, to be printed as a county charge in a pamphlet volume as soon as may be after each session, as they may deem necessary for exchange with other boards, and for the members of the board and other town and county officers. At least three copies of such printed volume shall be forwarded to and filed in each town clerk's office, and in the county clerk's office.

proceedings shall contain a summary statement of the county, presented to the board, and audited and allowed, indicating the amount allowed or disallowed. Supervisors may, as often as it shall deem necessary, printed and distributed in like manner, in the same volume, its county laws, combined with suitable forms and hereunder.

Publication of newspapers for publication of session members of the board of supervisors in each county respectively, each of the two principal political parties the people of the county are divided, or a majority of representing, respectively, each of such parties shall printing a paper fairly representing the political party respectively belong, to publish the session laws and resolutions of the legislature required by law to be publication shall be signed by the members making it the clerk of the board of supervisors. If a majority of the board representing either of such parties can a paper they shall so report to the clerk of the board, use or if either of such parties has no representative, the board of supervisors shall at their annual meeting called for that purpose, designate a paper stating the views of such political party as one of the publish the laws.

each board of supervisors as soon as such designation forward to the secretary of state a notice stating the press of such newspapers as have been selected for the within the county of the laws and concurrent resolutions are, or if there is but one newspaper in such county the first day of January in each year, forward to the state a notice stating the name and address of such and that it is the only newspaper published in the

Publication of session laws and concurrent resolutions laws and resolutions shall be published within thirty receipt thereof from the secretary of state; and the such law which, in the ordinary type of the news- it is published, would not occupy more than two be published in one issue, and when it exceeds such published as soon as possible, by occupying such successive issue.

Concurrent resolutions proposing amendments to the constitution shall be published in such newspapers once in each week for thirteen consecutive weeks, under the direction of the secretary of state, at the expense of the state.

§ 21. **Compensation.**—The expense of such publication shall be a county charge, which, in counties not having a city of over fifty thousand inhabitants shall not be less than twenty nor more than fifty cents per folio, and in other counties not less than thirty nor more than fifty cents per folio; the specific rate in either case to be fixed by the board of supervisors.

§ 22. **Election notices and official canvass.**—Such boards, except in the counties of Erie and Kings, shall, in like manner, designate two newspapers, representing respectively each of the two principal political parties into which the electors of the county are divided, in which shall be published the election notices issued by the secretary of state, and the official canvass, and fix the compensation therefor, which shall be a county charge.

§ 23. **Compensation of supervisors.**—For the services of supervisors, except in the counties of Albany, Broome, Columbia, Erie, Kings, Oneida, Onondaga, Rensselaer, Westchester and Richmond, each supervisor shall receive from the county compensation at the rate of four dollars per day for each calendar day's actual attendance at the sessions of their respective boards, and mileage at the rate of eight cents per mile, for once going and returning from his residence to the place where the sessions of the board shall be held, by the most usual route, for each regular and special session. In the county of Richmond each supervisor shall receive an annual salary of one thousand dollars in lieu of any per diem compensation. Each supervisor, except in the counties of Albany, Broome, Columbia, Erie, Oneida, Onondaga, Rensselaer, Westchester and Richmond, may also receive compensation from the county at the rate of four dollars per day while actually engaged in any investigation or other duty, which may be lawfully committed to him by the board, except for services rendered when the board is in session, and, if such investigation or duty require his attendance at a place away from his residence, and five miles or more distant from the place where the board shall hold its sessions, his actual expenses incurred therein. No other compensation or allowance shall be made to any supervisor for his services, except such as shall be by law a town charge. The board of supervisors of any county may also allow to each member of the board for his services in making a copy of the assessment-roll, three cents for each written line for the first one hundred lines, two cents per line for the second hundred written lines, and one cent per line for all written lines in excess of two hundred, and one cent for each line of the tax-roll actually extended by him.

Am'd by chap. 724 of 1893 and by chap. 480 of 1895. Took effect May 1, 1895.

and presentation of accounts against the county. It shall be audited by a board of supervisors, or by a referee, or by superintendents of the poor, unless it shall be verified in items and accompanied with an affidavit that the accounts are correct, and that the disbursements and charges therein have been in fact made or rendered, or are to be made or rendered at that session of the board, and no part of the amount claimed has been paid or satisfied. An account so presented and verified may be disallowed in part, and the board or such superintendents may require or further evidence of the truth or propriety thereof. Each account shall be numbered from one upwards in the order of presentation, and a memorandum of the time of presentation and of the claimant, and if assigned, the name of each assignor shall be entered in the proceedings of the board. No account after being so presented, shall be withdrawn without the consent of the board except to be used as evidence in another proceeding, and after being so used it shall be forthwith destroyed.

Additional requirements.— Boards of supervisors may make additional regulations and requirements, not in conflict with the laws of this State, concerning the keeping and rendering of official accounts of its county and town officers, and the presentation and verification of bills presented to their board or to the town boards of supervisors, as they may deem necessary for the efficiency of the administration and the protection of the interests of the public.

County records.— Such boards shall have the general custody of the books and records of the county, subject to the legal custody of officers using or having custody of the same, and shall be responsible for their safe-keeping. They may authorize county officers to have the official custody or control of any such books and records, maps and papers, to cause copies thereof to be made and certified for public use; and it shall be their duty to cause the same to be made and certified whenever by reason of age or exposure, or for any other cause the same shall be necessary. Any officers making such copies shall be paid such sum therefor as may be just; the compensation shall not exceed a sum to be certified by the board, or a justice of the supreme court of the judicial district in which the same shall be necessary. Such board of supervisors shall not be liable for any such services, until the work shall be examined and approved as to its manner and form of execution, by such

judge or justice; nor shall any board of supervisors order any such work to be done until such judge or justice, after an examination, shall certify that such work is necessary for the security and safety of the public records.

§ 27. **Examination of witnesses and officers by the board.**— Any such board may require the attendance of witnesses and may examine any person as a witness upon any subject or matter within its jurisdiction, or examine any officer of the county, or a town therein, in relation to the discharge of his official duties, or to the receipt or disbursement by him of any moneys, on* concerning the possession or disposition by him of any property belonging to the county, or to use, inspect, or examine, any book, account, voucher or document in his possession or under his control, relating to the affairs or interest of such county or town.

§ 28. **Committee of board.**— When any such board shall have appointed any member or members thereof, a committee upon any subject or matter of which the board has jurisdiction, and shall have conferred upon such committee power to send for persons and papers, the chairman of such committee shall possess all the powers herein given to, and imposed upon the chairman of the board of supervisors.

§ 29. **Adjournment.**— Such board or committee may adjourn from time to time, and such committee may hold meetings in pursuance of such adjournments, or on call of the chairman thereof, during the recess, or after the final adjournment of the board of supervisors; but where a warrant shall have been issued as provided by section 845 of the Code of Civil Procedure and not returned, such adjournment of the board or committee at whose instance it was issued, shall be to a time and place certain, of which notice shall be given by the chairman, to the judge before whom the warrant shall be returnable; and if the person against whom it issued shall be arrested, he may, in the discretion of the judge who issued the warrant, be discharged from custody, upon entering into an undertaking to the county, with two sureties to be approved by such judge, to the effect that he will appear and submit to an examination before such board or committee, as required, at the time and place to which it shall have been adjourned, or pay to the county treasurer such sum of money as such judge may direct.

§ 30. **Filing and enforcement of undertaking.**— Such undertaking shall be filed in the clerk's office of the county, and if default shall be made in the condition thereof, the district attorney of

* So in the original.

the county may sue and collect the sum therein mentioned, and the money, when received, and all moneys received for fines and penalties before such boards or committees, shall be paid into the treasury of the county.

§ 31. Location of county buildings.—The board of supervisors may, except in the county of Kings, by a majority vote of all the members elected thereto, fix or change the site of any county building, and the location of any county office; but the site or location of no county building or office shall be changed when the change shall exceed one mile, and shall be beyond the boundaries of the incorporated village or city, where already situated, except upon a petition of at least twenty-five freeholders of the county, describing the buildings or office, the site or location of which is proposed to be changed, and the place at or near which it is proposed to locate such new buildings or office; which petition shall be published once in each week for six weeks immediately preceding an annual or special meeting of such board, in three newspapers of the county, if there be so many, otherwise, in all the newspapers published in the county as often as once a week. With such petition shall also be published a notice signed by the petitioners, to the effect that such petition will be presented to the board of supervisors at the next meeting thereof.

§ 32. Proceedings on petition.—On the presentation of such petition and notice, with due proof of their publication, if a majority of all the members elected to such board vote in favor of a resolution for the removal of the site of the buildings described in such petition, to the site also therein described, or the change of the location of its county offices or any of them, said board shall thereupon direct that such resolution, together with the notice that the question of such removal will be submitted to the electors of the county at the ensuing general election, be published in at least two newspapers published in the county to be designated by the board, once in each week for six consecutive weeks immediately preceding such general election. Such resolution and notice shall be published accordingly.

§ 33. How submitted to vote.—The question of the removal of the site of such buildings, or the change of the location of any such office, shall thereupon be voted on by the electors of the county at such general election by ballot. If a majority of the ballots cast shall be in favor of such removal, the proceedings of such board of supervisors shall be deemed ratified by the electors, and the change of the site of such buildings, or the removal of such offices, shall be

made accordingly; but the old site, and the buildings thereon shall be continued and used until new buildings upon the new site have been provided and accepted by the board of supervisors.

§ 34. **Alteration and erection of towns.**—Any such board of supervisors, at an annual meeting thereof, by a vote of two-thirds of all the members elected thereto, on the application of at least twelve freeholders of each of the towns to be affected, divide or alter the boundaries of any town in the county, or erect a new town therein. Notice of such application, signed by such freeholders, shall be posted in some conspicuous public places in each of such towns for four weeks next preceding a presentation of such application to the board; and a copy of such notice shall be published for at least six consecutive weeks next preceding the meeting of the board to which the application is to be made, in three newspapers published in the county, if there be so many, otherwise in all the newspapers published in the county as often as once a week. Such applicants shall present to the board with such application and notice, due proof of the posting and publishing of such notice, and furnish the board with a map and survey of such towns, showing the proposed alteration. The board shall designate the name of any new town so erected. If an application be granted, a copy of such map, with a certified copy of the action of the board thereto annexed, shall be filed in the office of the secretary of state, who shall cause such statement to be printed and published with the laws of the next legislature.

§ 35. **First election in new town.**—The board shall designate the time and place of holding the first town meeting in a new town so erected, and appoint three electors thereof, who shall post notice of such town meeting, signed by the chairman or clerk of the board of supervisors, in four conspicuous public places in such town at least fourteen days before holding the same. Such electors shall preside at such town meeting, appoint a clerk, open and keep the polls, and exercise the same powers as justices of the peace presiding at town meetings; but if such electors shall refuse or neglect to serve, the electors of the town present shall substitute others in their number for each one so neglecting or refusing to serve. The posting of the notice of such meetings shall be valid if done by any elector of the town. Nothing herein shall affect the right of any officer to abridge the term of office of any town officer in any town, but such officers shall hold and exercise the offices in the town in which they respectively reside after the change or alteration.

§ 36. **Establishment of disputed lines.**—Such board may

tablish and define boundary lines between the several towns of the county. A notice of intention to apply to the board to establish and define such boundary line, particularly describing the same, and the line as proposed to be acted upon by such board, signed by a majority of the members of the town board of some one of the towns to be affected thereby, shall be published for four consecutive weeks next preceding the meeting of the board at which the application is to be presented, in three newspapers published in the county in, or nearest to such towns, if so many, otherwise in all the newspapers published in the county as often as once a week. A copy of such notice shall also be served personally, at least fifteen days before the meeting of such board, on the supervisor and town clerk of each of the other towns to be affected thereby. A copy of the resolution, as adopted by the board, which shall contain the courses, distances and fixed monuments specified in such boundary line or lines, together with a map of the survey thereof, with the courses, distances and fixed monuments referred to therein, plainly and distinctly marked and indicated thereon, shall be filed in the office of the secretary of state within thirty days after the adoption of such resolution, who shall cause the same to be printed and published with the laws of the next state legislature after the adoption thereof.

§ 37. **Fire districts outside of incorporated villages.**—Each board of supervisors may, on the written verified petition of the taxable inhabitants of a proposed fire district outside of an incorporated village or city, and within the county, whose names appear on the last preceding assessment-roll of the town within such proposed fire district is located, as owning or representing more than one-half of the taxable real property of such district, or as owning or representing more than one-half of the taxable real property of such district owned by residents thereof, establish such district as a fire district. No such district shall extend in any direction to exceed one mile from the nearest engine or hook and ladder-house located within the district, nor shall any property be entitled to the protection, nor liable to be assessed or taxed for the support, of any fire department of any such district, unless the same lies wholly within the district. When any such fire district has been established in the manner above provided, the legal voters thereof may elect not less than three nor more than five residents thereof to be fire commissioners, for a term of five years, or such less term as a majority of such voters at the time of any such election may express on their ballots; and may also elect a treasurer in such fire district for a term of three years, who shall be entitled to receive and have the custody of the funds of the district and pay out the same for the purposes herein provided for, on the order of the fire commissioners, which treasurer, before entering upon the duties of his office, shall give such security as the board of supervisors may require. The first election for such fire commissioners and treasurer, shall be called by the clerk of the town within which any such district shall be established, within thirty days from the establishment of such district, and upon such notice, and in the same manner as required for by special town meetings. All sub-

sequent elections shall be called in the same manner by the clerk of the town, not less than thirty days prior to the expiration of the term of office of any such commissioners or of the treasurer; special elections to fill any vacancies shall be called in the same manner, within thirty days after any such vacancy shall occur. Any such district when established, shall be known by such name as the fire commissioners thereof may adopt at their first meeting for organization, and thereafter such fire commissioners shall be authorized and empowered to purchase apparatus for the extinguishment of fires therein; rent or purchase suitable real estate and buildings for the keeping and storing of the same; and to procure supplies of water, and have control and provide for the maintenance and support of a fire department in such district; and shall have the power to organize fire, hook, hose, ladder, axe and bucket fire patrol companies, and to appoint a suitable number of able and respectable inhabitants of said district as firemen, and to prescribe the duties of the firemen and the rules and regulations for the government of such companies and of the fire department; and who shall have power to make any and all contracts within the appropriations voted by the resident taxpayers of the district for the purpose of carrying out the authorization and powers herein granted. Whenever the fire commissioners in any such fire district shall submit a request in writing for an appropriation of any sum of money for the purposes herein authorized, the clerk of the town in which such fire district shall be located, shall call a meeting of the resident taxpayers of the district for the purpose of voting upon the question of appropriating such money; such meeting to be called by a notice posted conspicuously in at least two of the most public places in such fire district, at least ten days before the holding of any such meeting, which notices shall state the time, place and purposes of the meeting. At any such meeting such resident taxpayers may appropriate the amount requested by the fire commissioners, or any less amount, and when any such appropriation is made, the amount appropriated shall be assessed, levied and collected on such district, in the same manner, at the same time and by the same officers as the taxes of the town in which the district is located are assessed, levied and collected, and when collected shall be paid over immediately by the supervisor of the town to the treasurer of the fire district; and the town shall be responsible for any and all sums so collected until the same shall be paid over to such treasurer. All meetings of any such district called for the election of officers, or for the appropriation of money, shall be presided over by a resident taxpayer to be designated by the fire commissioners, except that the first meeting after any such fire district shall have been established shall be presided over by a resident taxpayer selected by the legal voters at the meeting; and all elections for fire commissioners and for treasurer shall be by ballot, in the same manner as is provided for the election of other town officers. The board of supervisors in any county in which any such fire district shall have been heretofore or shall be hereafter established, may at any time, upon the written verified petition of the taxable inhabitants of any such district, whose names appear upon the last preceding assessment-roll of the town within which such district is located as owning or representing more than one-half of the taxable real property of such district, or as owning or representing more than one-half of the taxable real property in such district owned by residents thereof, discontinue such district as a fire district, and upon such action being taken by the supervisors, the fire commissioners of such district shall proceed to sell the property belonging to such district at public sale; three notices of such sale shall be posted conspicuously in three of the most public places in the district, for a period of thirty days prior to the sale, and the proceeds

of such sale shall be paid over by the treasurer of the district to the supervisor of the town, and the sum so paid over shall be credited to the taxable real property located in such district, in the next succeeding assessment of town taxes. Whenever any portion of any such fire district heretofore or hereafter established shall be incorporated into the corporate limits of any incorporated village or city, the board of supervisors of the county in which such district is located, upon the written verified petition of more than one-half in assessed valuation of the taxable inhabitants of such incorporated portion of the fire district, change the boundaries of such district in such manner as shall exclude such incorporated portion of the district, and thereafter such incorporated portion of the district shall not be entitled to the protection, nor liable to be assessed or taxed for the support, of the fire department of such district.

Am'd by Ch. 937 of 1895. Took effect June 26, 1895.

§ 38. **Soldiers' monument.**— Any such board may also, by a vote of two-thirds of its members, raise and appropriate such moneys as it may deem necessary, for the erection within the county of public monuments, in commemoration of the federal soldiers and sailors in the late war of the rebellion, or of any other public person or event, and for repairing and remodeling such monuments; all moneys so raised shall be expended by direction of the board of supervisors; but no county officer shall receive any compensation for services rendered pursuant to this section.

ARTICLE III.

CLERKS OF BOARDS OF SUPERVISORS.

SECTION 50. Duties.

51. Annual statement.
52. Report of county indebtedness.
53. Statement of railroad, telegraph, telephone and electric light taxes.
54. Forfeiture.

§ 50. **Duties.**— Clerks of boards of supervisors shall:

1. Record in books provided for the purpose all the proceedings of such board.

regular entries of all their resolutions or decisions.
the vote of each supervisor on any question submitted
when the law authorizing the vote requires an entry of
days, and in other cases if required by any member

and preserve all accounts acted upon by the board.
state upon every account audited and allowed by the
amount so audited and allowed, and the items or amount
and deliver to any person who may demand it, a certi-
any account on file in his office, on receiving from such
cents per folio therefor.

the books and papers of the board open to public inspec-
charge.

it to the librarian of the State Library at Albany, a
proceedings of such board, annually, and within twenty
the same shall be published.

to the tax-rolls under the direction of the board.
on such other duties as may lawfully be required of him

Annual statement.—The clerk shall annually, on or be-
day of January, make out and certify, and within two
to be published in a newspaper printed in the county,
abstract of accounts furnished by town auditors, a state-
preceding year, containing:

abstract of all county accounts presented to the board at its
meeting, allowed or disallowed, with the amount claimed
and the name of each person presenting the same, and
nature of the account.

amount, items and nature of all compensation, audited by
each member thereof.

number of days the board was in session, and the distance
each member in attending the same.

County indebtedness.—The clerk shall annually on or before
day in December, transmit to the comptroller by mail, in the form
comptroller shall prescribe, a certified statement of all the indebtedness
of each town, city, village and school district therein, and of the
estimated amount of real and personal estate in each town or ward, as cor-
board of supervisors, and it shall be the duty of the person or per-
son with the issue or payment of such indebtedness to transmit a state-
ment to the said clerk annually, on or before the first day of Novem-
ber of this section shall also apply to the county of New York.

Ch. 310 of 1895. Took effect April 6, 1895.

Statement of railroad, telegraph, telephone and electric

—The clerk shall, within five days after the mak-

ing out, or issuing of the annual tax-warrant by the board of supervisors, prepare and deliver to the county treasurer of his county, a statement showing the title of all railroad corporations and telegraph, telephone and electric-light lines in such county, as appear on the last assessment-roll of the towns or cities therein, the valuation of the property, real and personal, of such corporation and line in each town or city, and the amount of tax assessed or levied on such valuation in each town or city in his county.

§ 54. **Forfeiture.**—Any such clerk who shall refuse or neglect to make any report, return or statement required of him by this article, shall forfeit to the county, the sum of one hundred dollars, to be recovered by the district attorney thereof, in the name of the county.

ARTICLE IV.

DUTIES OF BOARDS OF SUPERVISORS RELATING TO HIGHWAYS AND BRIDGES.

SECTION 60. Limitation of article.

61. County highways and bridges.
62. Location and construction of bridges.
63. County aid to towns for the construction and repair of bridge.
64. Construction by county of destroyed bridges.
65. Apportionment of expenses, when a bridge is intersected by town or county lines.
66. County's share of expenses, to be raised and paid to commissioners of highways of towns.
67. May authorize a town to construct a bridge outside of a boundary line.
68. Bridges over county lines.
69. Authorize towns to borrow money.
70. The raising and expenditures of moneys.
71. Streets outside of city limits.
72. Survey and records of highways.
73. Regulation of toll-rates.
74. Highways in counties of more than 300,000 acres of unimproved land.
75. Appropriation of certain non-resident highway taxes.
76. Balance of state appropriations.
77. Alteration of state roads.
78. Further powers.
79. Powers in certain counties.
80. Abandoned turnpike.

§ 60. **Limitation of article.**—This article shall not apply to bridges on the Hudson river below Waterford, or on the East river, or over the waters forming a part of the boundaries of the state.

§ 61. **County highways and bridges.**—A board of supervisors shall, on the application of twenty-five resident tax-payers, when

satisfied that it is for the interest of the county, lay out, open, alter, or discontinue a county highway therein, or cause the same to be done, and construct, repair, or abandon a county bridge therein, or cause the same to be done, when the board shall deem the authority conferred on commissioners of highways insufficient for that purpose, or that the interests of the county will be promoted thereby. All expenses so incurred shall be a county charge. Such powers shall not be exercised unless the applicants therefor shall prove to the board the service of a written notice, personally or by mail, on a commissioner of highways of each town in the county, at least twelve days prior to the presentation of such application, specifying therein the object thereof; and when the application is to lay out a highway, or construct a bridge, the route or location thereof; and in all other cases, a designation of the highway or bridge to be affected thereby.

§ 62. **Location and construction of bridges.**—The board may authorize the location, change of location and construction of any bridge, applied for by any town, or towns, jointly, or by other than a municipal corporation, created under a general law, or by any corporation or individual for private purposes; and if a public bridge, erected other than by a municipal corporation, establish the rates of toll for crossing such bridge; but if such bridge is to cross a navigable stream, provision shall be made in the resolution or permission authorizing the same, for the erection and maintenance of a suitable draw, to prevent any obstruction of the navigation of such stream; and if a private bridge, provision shall be made that the draw shall be kept open as may be required to permit all vessels to pass without loss of headway. When such bridge shall be intersected by the line of counties, the action of the board of supervisors of each county shall be necessary to give the jurisdiction herein permitted.

§ 63. **County aid to towns for the construction and repair of bridges.**—If the board of supervisors of any county shall deem any town in the county to be unreasonably burdened by its expenses for the construction and repair of its bridges, the board may cause a sum of money, not exceeding two thousand dollars in any one year, to be raised by the county and paid to such town to aid in defraying such expenses.

§ 64. **Construction by county of destroyed bridges.**—If any bridge within a county, or intersected by any boundary line of a county, shall be destroyed by the elements, and the board of supervisors of the county shall deem that the expenses of the construction of a new bridge at or near the site of the bridge so de-

stroyed would be too burdensome upon the town or towns within such county, which would otherwise be liable therefor, the board of supervisors of any such county may provide for the construction and completion of a bridge and all necessary approaches thereto, at or near the site of the bridge so destroyed. If the bridge so destroyed shall have been constructed by a corporation created under a general law, and the site thereof, and of the approaches thereto, or either, shall be the property of such corporation, such board of supervisors may purchase the interest of such corporation, or any other person, in such site or approaches, if such purchase can be accomplished upon reasonable terms; but if such site or approaches can not be lawfully acquired by such purchase, or otherwise, upon reasonable terms, such board may acquire title to premises on either side of such site, and provide for the construction of a bridge and approaches thereto, at such place, at the expense of the county, or of the two counties jointly, as the case may be, provided such bridge shall be so located as not to increase the distance to be traveled upon the highway to reach each end of such bridge more than five rods. Any board of supervisors providing for the construction of any such bridge may determine by resolution whether the expenses of the maintenance and repair thereof shall thereafter be a county charge, or a charge upon such town or towns.

§ 65. **Apportionment of expenses when a bridge is intersected by town or county lines.**—If any public free bridge, intersected by the boundary line of a county, shall also be intersected by the boundary line of two or more towns in such county, the board of supervisors of such county shall apportion as it shall deem equitable, between such towns, their respective shares of the expenses of the construction, maintenance and repair of such bridge, and the amount to be received by each town, of the money raised by the county to be paid toward defraying the expenses of constructing and repairing such bridge.

§ 66. **County's share of expenses to be raised and paid to the commissioners of highways of the towns.**—The board of supervisors shall cause to be raised and collected the amount to be paid by the county to any town toward the expenses of a bridge and when collected the same shall be paid to the commissioners of highways of the town, to be applied by them toward the payment of such expenses.

§ 67. **May authorize a town to construct a bridge outside of a boundary line.**—The board of supervisors of any county may au-

over county lines.—The board shall provide for the care, maintenance and repair of any draw or other bridge intersecting the line of counties or towns, and which bridge is by law a joint charge on such counties or towns, or on the towns in which it is situated; and to severally apportion the expenses thereof on the towns respectively, or on the respective counties when liable; but when such bridge spans any portion of the navigable tide-waters of this state, forming a crossing, the boundary line between two counties, such expense shall be apportioned in equal charge upon the two counties in which the bridge is situated. The board of supervisors in each of such counties shall apportion the expense among the several towns and cities in their respective counties, or among either of such towns and cities, as in their judgment may seem proper. If there be in either of said counties, a city, the boundaries of which coincide with the boundaries of the county, then it shall be the duty of the board of such city, to perform the duty hereby imposed upon the boards of such counties; but no town or city not immediately adjacent to such waters, and not owned or maintained by said bridge shall be liable for a larger proportion of such expense as the taxable property of such town or city bears to the whole amount of the taxable property of such county. The board of supervisors of such counties shall embrace the entire county, and having no board of supervisors, the board of such county shall have full control of such bridges. No such bridge shall be condemned unless the board of supervisors in each of such counties, and the board of the city whose boundaries are the same as the boundary of the county, or the board of the town or city immediately adjacent to such waters, shall first by resolution determine that such bridge is necessary for public convenience, in which case such common council, or the board of the mayor, may authorize the issue of bonds for the purpose of financing such bridge, to be issued as other bonds are issued in said city. Any bridge now spanning any such navigable tide-waters or hereafter constructed, or any such navigable tide-waters, shall be condemned by the United States authorities as an obstruction to navigation, and shall be ordered removed, and city authorities having charge of such bridge, if they shall neglect to do so, and such bridge shall be rebuilt, shall, as soon as practicable after the order of condemnation, cause plans to be prepared for the erection of the new bridge, and shall cause the removal of any bridge so condemned as aforesaid, and within a reasonable time submit the same to the approval of any such plans by the United States authorities, and shall cause the same to be proceeded with the construction of said new bridge. In case of unreasonable delay on the part of the officer or officers charged with the execution of such new bridge, such duty may be enforced by mandamus, or the application of any citizen interested in its performance.

prize towns to borrow money.—The board may, upon the application of any town or towns, make such town or towns liable or to be made liable to taxation in whole or in part for building, repairing or discontinuing any highway or bridge therein or bridges thereon, pursuant to a vote of a majority of the electors of any such town or towns at an annual town meeting, or special town meeting, called for that purpose, or by written request of the commissioners of highways and town board of any such town or towns, authorize such town or towns to construct, build, repair or improve any such highway or bridge, and to borrow such sums of money for and from any such town or towns, as may be necessary for that purpose, and to lay out, grade, discontinue or macadamize such highway, or to purchase or lease any plankroad, turnpike, tollroad or toll-bridge in such town or towns, or to sell any such highway or bridge, or to sell the same, or any part thereof, or to authorize the company owning the same to sell the same, or any part thereof, or to franchise the same, or to pay any debt incurred in good faith for the franchises thereof, or to pay any debt incurred in good faith

by or in behalf of such town or towns for such purposes. If such highway or bridge shall be situated in two or more towns in the same county, the board shall apportion the expenses among such towns in such proportion as shall be just. But in the county of Queens a vote of a majority of the electors of any such town or towns, voting at an annual town meeting, or special town meeting called for that purpose, must first be obtained before the board can authorize such town or towns to borrow any money for, or on the faith and credit of such town or towns for the purposes above mentioned.*

Am'd by ch. 178 of 1896. In effect April 1, 1896.

§ 70. The raising and expenditure of moneys.—The board shall, from time to time, impose upon the taxable property of such towns sufficient tax to pay such obligations as they shall become due. The supervisor and town clerk shall each keep a record, showing the date and amount of the obligations issued, the time and place of their payment, and the rate of interest thereon. The obligations shall be delivered to the supervisor of the town, who shall dispose of the same for not less than par, and pay the proceeds thereof to the commissioners of highways of the town, or to such other officer as shall be designated by the board of supervisors, to be used by them for the purposes for which the same were appropriated; but not more than five hundred dollars of such proceeds shall be expended upon any highway or bridge, except in pursuance of a contract made by a contractor with the commissioners of highways of the town, or other officer designated by the board of supervisors, and approved by the town board, no member of which shall be interested therein. If such highway or bridge shall be wholly or partly within the limits of an incorporated village, the consent of a majority of the trustees of such village shall be necessary for the action of the board of supervisors as herein provided.

§ 71. Streets outside of city limits.—When any territory in a county containing an incorporated city of one hundred thousand inhabitants, excepting the towns of Flatbush and New Lots in the county of Kings, has been mapped into streets and avenues pursuant to law, the board of supervisors may authorize the establishment of a plan for the grade of such streets and avenues, laying out, opening, grading, constructing, closing and change of line of any one or more of them, and provide for the assessment on property intended to be benefited thereby, and fixing assessment districts therefor, and for the levy, collection and payment of the amount of damages sustained and the charges and expenses incurred, or which may be necessary to incur in carrying out such provisions, but such last named power in regard to laying out, opening, grading, constructing and change of line, of such streets or avenues or defraying the expenses thereof, shall only be exercised on the petition of the property owners, who own more than one-half of the frontage on any such street

* See ch. 854 of 1896, p. —.

or avenue, or on a certificate of the town board and commissioners of highways of the town, that the same is, in their judgment, proper and necessary for the public interest. If the streets and avenues, in respect to which such action is proposed to be taken, shall lie in two or more towns, a like certificate shall be required of the town board and commissioners of highways of each town. Before making such certificate, such town board, or boards and commissioners of highways, shall give ten days' notice by publication in one of the daily papers of the county, and by conspicuously posting in six public places in each of such towns, of the time and place at which they will meet to consider the same, at which meeting the public, and all persons interested, may appear and be heard in relation thereto. No such street or avenue shall be laid out, opened or constructed, upon or across any lands acquired by the right of eminent domain, and held in fee for depot purposes by any railroad corporation, or upon or across any lands now held by a corporation formed for the purpose of improving the breed of horses, without the consent of such corporations. No town officer shall charge any thing for his services under this section, nor shall any charge be made against any such town or the property therein, for the expense of the publication of the notice herein required.

§ 72. **Survey and records of highways.**—The board may authorize and direct the commissioners of highways of any town, to cause a survey to be made, at the expense of the town, or* any or all of the highways therein, and to make or complete a systematic record thereof, or to revise, collate and rearrange existing records of highways, and correct and verify the same by new surveys and to establish the location of highways by suitable monuments. Such records so made, or revised, corrected and verified, shall be deposited with the town clerk of the town, and shall thereafter be the lawful records of the highways which they describe; but shall not affect rights pending in any judicial proceeding commenced before the deposit of such revised records with the town clerk.

§ 73. **Regulation of toll rates.**—Such boards shall have power, by a vote of two-thirds of all the members elected to authorize an alteration, reduction or change of the rates of toll charged or received by any turnpike, plank or gravel road, or other toll road within such county, or by any bridge company or ferry within such county, or, if within more than one county, then by joint action with the supervisors of such counties, provided such alteration shall be asked for by the directors, trustees or owners of such road, bridge or ferry;

* So in the original.

but that no increase of toll shall be so authorized unless notice of intention to apply for such increase shall have been published in each of the newspapers published in such county, once in each week for six successive weeks next before the annual election of supervisors in such county; and any alteration in rates of toll authorized by any board of supervisors may be changed or modified by any subsequent board, on their own motion, by a like vote of two-thirds of all the members elected to such board; but nothing herein contained shall affect or abridge the powers of any city.

§ 74. Highways in counties of more than 300,000 acres of unimproved land.—The board may establish separate highway districts in counties containing more than three hundred thousand acres of unimproved unoccupied forest lands, for the purpose of constructing highways through such lands; such highway districts to be established upon the application of the owners of more than one-half of the non-resident lands therein. Any such highway district shall consist of contiguous tracts or parcels of land, and may include parts of one of more towns; and they may be changed, altered or abolished at any time by the board. Such board may appoint one or more commissioners to lay out and construct such highways in any such district, and prescribe the powers and duties, and direct the manner in which highway taxes shall be assessed, levied and collected upon the lands within the district, and the manner of expenditure thereof.

They may also authorize such commissioners to borrow money on such terms as they may deem just, but not exceeding the amount of ten years' highway taxes upon such lands; and may, for the purpose of repaying such loan, set apart and appropriate the highway taxes upon such lands, for a period not exceeding ten years from the time of making such loan.

§ 75. Appropriation of certain non-resident highway taxes—The board may, upon the application of the owners representing a majority in value, as shall be ascertained from the last annual assessment-roll of the real estate lying along the line of any highway, laid out through unimproved lands, in cases not provided for in the last preceding section authorize the appropriation of the non-resident highway tax on the lands lying along such line, for the improvement of such highways.

§ 76. Balance of state appropriations—The board may direct the expenditure of any non-resident highway or bridge tax, set apart by an act of the legislature, in counties wherein such non-resident

lands are situated, when the official life of commissioners appointed to receive and expend such taxes has expired.

§ 77. **Alteration of state roads.**—The board may authorize the commissioners of highways of any town in their county to alter or discontinue any road or highway therein, which shall have been laid out by the state under the same conditions that would govern their actions in relation to highways that have been laid out by local authorities.

§ 78. **Further powers.**—The board may make such other local and private laws and regulations concerning highways, alleys, bridges and ferries within the county, and the assessment and apportionment of highway labor or taxes therefor, not inconsistent with law, as it may deem necessary and proper, when the purposes of such laws and regulations can not be accomplished under the foregoing provisions, or the general laws of the state.

§ 79. **Powers in certain counties.**—In counties wherein the aggregate amount of money expended by the county and towns within the county, for the improvement of public roads by macadamizing or paving, exceeds the sum of five hundred thousand dollars, the board of supervisors may enact local and private laws regulating the width of tires on wagons built to carry a weight of twenty-five hundred pounds or upwards, and may provide penalties for the violation thereof, provided, however, that such local laws shall not apply to pleasure vehicles, or carriages, or to wagons coming from adjacent cities or counties, nor to any city within the county.

Added by chap. 644 of 1894. Took effect May 10, 1894.

§ 80. Boards of supervisors shall have power to provide for the use of abandoned turnpike, plank or macadamized roads within any town as public highways; but jurisdiction in such a case shall not be exercised without the assent of two-thirds of all the members elected to such board, to be determined by yeas and nays, which shall be entered on its minutes

Added by chap. 756 of 1895 Took effect May 27, 1895.

ARTICLE V.

COUNTY JAILS.

SECTION 90. Use of jails.

91. Rooms therein.
92. Custody and control of prisoners.
93. Food and labor.
94. Reading matter.
95. Record of commitments.
96. Commitment by United States courts.
97. Keepers to present calendars to courts.
98. Discharge if not indicted.
99. Suspension of habeas corpus.
100. Prisoner to be discharged if unable to pay fine.
101. Houses of detention for women, children and witnesses.
102. County work-houses.
103. Who may visit jails or work-houses.

§ 90. **Use of jails.**—Each county jail shall be used,

1. For the detention of persons duly committed to secure their attendance as witnesses in any criminal case;

2. For the detention of persons charged with crime, and committed for trial or examination;

3. For the confinement of persons duly committed for any contempt, or upon civil process.

4. For the confinement of persons convicted of any offense, other than a felony, and sentenced to imprisonment therein, or awaiting transportation under sentence to imprisonment in another county.

§ 91. Rooms therein.—Each county jail shall contain,

1. A sufficient number of rooms for the confinement of persons committed on criminal process, or detained for trial, or examination as witnesses in a criminal case, separately from prisoners under sentence;

2. A sufficient number of rooms for the separate confinement of persons committed on civil process, or for contempt;

3. A sufficient number of rooms for the solitary confinement of prisoners under sentence.

§ 92. Custody and control of prisoners.—Each sheriff shall receive and safely keep in the county jails of his county, every person lawfully committed to his custody, for safe-keeping, examination, trial, or as a witness, or committed or sentenced to imprisonment therein, or committed for contempt. He shall not, without lawful authority, let any such person out of jail. Persons in custody on civil process, or committed for contempt, or detained as witnesses shall not be put or kept in the same room with persons detained for trial, or examination upon a criminal charge, or with convicts under sentence. Persons detained for trial or examination upon a criminal charge, shall not be put or kept in the same room with convicts under sentence.

A woman detained in jail upon a criminal charge, or as a convict under sentence, shall not be kept in the same room with a man; and if detained on civil process, or for contempt, or as a witness, shall not be put or kept in the same room with a man, except with her husband, in a room in which there are no other prisoners. All persons confined in a county jail shall, as far as practicable, be kept separate from each other, and shall be allowed to converse with their counsel, or religious adviser, under such reasonable regulations and restrictions, as the keeper of the jail may fix. Convicts under sentence shall not be allowed to converse with any other person, except in the presence of a keeper.

The keeper may prevent all other conversation by any other prisoners in the jail, when he shall deem it necessary or proper.

§ 93. Food and labor.—Prisoners detained for trial, and those under sentence, shall be provided with a sufficient quantity of plain but wholesome food, at the expense of the county; but prisoners detained for trial may, at their own expense, and under the direction of the keeper, be supplied with any other proper articles of food. Such keeper shall cause each prisoner committed to his jail for imprisonment under sentence, to be constantly employed at hard labor when practicable, during every day, except Sunday, and the holidays of supervisors of the county, or judge of the county, may prescribe the kind of labor at which such prisoner shall be employed; and the keeper shall account, at least annually, with the board of supervisors of the county, for the proceeds of such labor. Such keeper may, with the consent of the board of supervisors of the county, or the county judge, from time to time, cause such of the convicts under his charge

as are capable of hard labor, to be employed outside of the jail in the same, or in an adjoining county, upon such terms as may be agreed upon between the keepers and the officers, or persons, under whose direction such convicts shall be placed, subject to such regulations as the board or judge may prescribe; and the board of supervisors of the several counties are authorized to employ convicts under sentence to confinement in the county jails, in building and repairing penal institutions of the county and in building and repairing the highways in their respective counties or in preparing the materials for such highways for sale to and for the use of such counties or towns, villages and cities therein; and to make rules and regulations for their employment; and the said board of supervisors are hereby authorized to cause money to be raised by taxation for the purpose of furnishing materials and carrying this provision into effect; and the courts of this state are hereby authorized to sentence convicts committed to detention in the county jails to such hard labor as may be provided for them by the boards of supervisors.

Am'd by ch. 826 of 1896. In effect May 21, 1896.

§ 94. Reading matter.—Each keeper shall provide a bible to be kept in each room of the jail in his charge, and he shall permit the persons therein confined, to be supplied with other suitable and proper books and papers, and if practicable, he shall cause divine service to be conducted for the benefit of the prisoners, at least once each Sunday, if there shall be room in the prison that may be safely used for that purpose.

§ 95. Record of commitments.—Each keeper shall keep a daily record of the commitments and discharges of all prisoners delivered to his charge, which shall contain the date of entrance, name, offense, term of sentence, fine, age, sex, place of birth, color, social relations, education, secular and religious, for what and by whom committed, how discharged, trade or occupation, whether so employed when arrested, number of previous convictions.

§ 96. Commitments by United States courts.—Such keeper shall receive and keep in his jail every person duly committed thereto, for any offense against the United States, by any court or officer of the United States, until he shall be duly discharged; the United States supporting such person during his confinement; and the provisions of this article, relative to the mode of confining prisoners and convicts, shall apply to all persons so committed by any court or officer of the United States.

§ 97. Keepers to present calendars to courts.—Such keeper shall present to every court of oyer and terminer, and every court of sessions having a grand jury, to be held in his county, at the opening of the court, a calendar stating:

1. The name of every prisoner then detained in such jail.
2. The time when he was committed, and by virtue of what precept.

3. The cause of his detention.

§ 98. **Discharged if not indicted.**—Within twenty-four hours after the discharge of any grand jury by any such court, the court shall cause every person so confined in jail on a criminal charge, who shall not have been indicted, to be discharged without bail, unless satisfactory cause shall be shown for its further detention, or if the case may require, upon bail, until the meeting of the next grand jury in the county.

§ 99. **Suspension of habeas corpus.**—During the session of the court of oyer and terminer in any county, no person detained in a county jail of such county, *no person detained in a county jail of such county* upon a criminal charge, shall be removed therefrom by writ of habeas corpus, unless such writ shall have been issued by or shall be made returnable before such court.

§ 100. **Prisoner to be discharged if unable to pay fine.**—When any person shall be confined in a jail for the non-payment of a fine, not exceeding two hundred and fifty dollars, imposed for any criminal offense, and against whom no other cause of detention shall exist, on satisfactory proof being made to the county court of the county in which such prisoner may be confined, that he is unable, and has been ever since his conviction, to pay such fine, the court may in its discretion, order his discharge.

§ 101. **Houses of detention for women, children and witnesses.**—The board of supervisors of any county, except the county of Kings, may procure, by lease or purchase, a suitable place or places, other than the jail, for the safe and proper keeping, and care of women and children charged with crime not punishable by death or imprisonment in state prison for a term exceeding five years or with second offense, and persons detained as witnesses, to be termed houses of detention; and when so provided, any magistrate in the county shall commit women and girls, and boys under sixteen years of age, and all persons held as witnesses thereto, instead of the jail. The sheriff shall have the same charge and control of such house, and shall be entitled to the same compensation for the care and keeping of prisoners therein, as in the county jail.

§ 102. **County work-houses.**—The board of supervisors of any county may establish and maintain a work-house for the confinement of persons convicted within the county of crimes and criminal offenses, the punishment for which is imprisonment in the county jail, and may provide for the imprisonment and employment therein

*So in the original.

of all persons sentenced thereto, and any court or judicial officer may sentence such person to such work-house instead of to the county jail.

§ 103. **Who may visit jails and work-houses.**—The following persons may visit at pleasure all county jails and work-houses: The governor and lieutenant-governor, secretary of state, comptroller and attorney-general, members of the legislature, judges of the court of appeals, justices of the supreme court and county judges, district attorneys and every member* of the gospel having charge of a congregation in the town in which such jail or work-house is located. No other person not otherwise authorized by law shall be permitted to enter the rooms of a county jail or work-house in which convicts are confined, unless under such regulations as the sheriff of the county shall prescribe.

ARTICLE VI.

Dogs.

SECTION 110. Tax on dogs.

111. Rate of taxation when not fixed by the board.
112. Owner to deliver description.
113. Tax, how collected.
114. Application of proceeds of tax.
115. Collectors' fees.
116. When payment of tax to be proved.
117. Liability of owners of dogs for injuries.
118. Duties and powers of fence viewers.
119. Certificate to be evidence.
120. Duties of town board.
121. Tax to pay orders for sheep killed.
122. When owners shall refund.
123. Dogs chasing sheep to be killed.
124. Owner to kill dog after notice.
125. When justice may order dog killed.
126. Who deemed owner of dog.

§ 110. **Tax on dogs.**—Each board of supervisors, except in counties having a population of eight hundred thousand or over, may fix and impose a tax on dogs within the several cities and towns in its county. Such taxes shall be assessed, collected and applied in the manner provided by sections one hundred and thirteen and one hundred and fourteen of this chapter. If they do not exercise the powers herein conferred, the following provisions, so far as they relate to the taxation of dogs and the manner of collecting the same, shall apply to such county and the towns therein.

Am'd by chap. 332 of 1895. Took effect April 17, 1895.

§ 111. Rate of taxation when not fixed by the board.—Ex-

* So in the original.

cept in the city of Albany, the county of Kings, the county of Westchester and the city of Buffalo, there shall be annually levied and collected the following tax on dogs over four months old: Upon every bitch owned or harbored by any one or more persons, or by any family, three dollars; upon every additional bitch owned or harbored by the same person or persons or family, five dollars; upon every dog other than a bitch owned or harbored by one or more persons, or by any family, fifty cents; and upon every additional dog, other than a bitch, owned or harbored by the same person or persons or family, two dollars.

§ 112. **Owner to deliver description.**—The owner and possessor of every dog liable to such tax, shall, whenever required by any assessor, deliver to him a written description of every such dog owned or possessed by him. For every neglect or refusal so to do, and for every false statement made in any description so furnished, he shall forfeit five dollars, to be recovered by the supervisor of the town.

§ 113. **Tax, how collected.**—The assessors of every town, city or ward, shall annex to the assessment-roll of real and personal estate therein, made by them annually, the name of each and every person liable to the tax imposed thereby, together with the number of bitches and dogs for which such person is assessed, and return the same to the supervisors of their respective towns, cities or wards, to be laid by each supervisor before the board of supervisors, to be assessed and collected in the same manner as other state, county and town taxes are collected; and if any person duly assessed, shall refuse or neglect to pay the tax so assessed, within five days after demand thereof, it shall be lawful for any person, and it shall be the duty of the collector to kill the dog so taxed.

§ 114. **Application of proceeds of tax.**—The collector of each town shall pay over the taxes so collected to the supervisor of the town, and the moneys so collected and paid over shall, in each town, constitute a town fund for paying the damages arising in such town, from dogs killed or injuring sheep; and such moneys, or the balance thereof, which shall remain in the hands of the supervisor of any town for the period of one year, may, by a vote of the majority of the electors of any town, at any town meeting, be appropriated for the purpose of building and repairing highways and bridges, or for the payment of the contingent expenses of such town.

§ 115. **Collector's fees.**—Each collector shall be allowed to retain a commission of ten dollars on every hundred dollars collected,

and at that rate upon all sums collected by him pursuant to this article, and upon filing his affidavit of the fact with the supervisor, be entitled to retain, as a further compensation from the moneys collected by him, the sum of one dollar for every dog or bitch killed by him under the provisions of this article.

§ 116. **When payment of tax to be proved.**—In any action brought for the killing of any dog, it shall be incumbent on the plaintiff in such action to prove that the tax imposed upon such dog if any, by the provisions of this article has been paid.

§ 117. **Liability of owners of dogs for injuries.**—The owner or possessor of any dog that shall kill or wound any sheep or lambs shall be liable for the value of such sheep or lamb to the owner thereof, without proving notice to the owner or possessor of such dog, or knowledge by him that his dog was mischievous or disposed to kill sheep.

§ 118. **Duties and powers of fence viewers.**—The owner of any sheep or lambs that may be killed or injured by dogs, may apply to any two fence viewers of the town, village or city, where such sheep or lambs were killed or injured, who shall inquire into the matter, and examine witnesses in relation thereto, and if they shall be satisfied that the same were killed by dogs, and in no other way, they shall certify such fact, the number of sheep killed, and the number injured, the value of the sheep killed or injured immediately previous to such killing or injury, the value of the sheep after being so killed or injured, together with the amount of their fees.

§ 119. **Certificate to be evidence.**—Such certificate shall be presumptive evidence of the facts therein contained, in any civil action or proceeding.

§ 120. **Duties of town board.**—Such certificate shall be presented to the town board at its second annual meeting for audit; and if such board shall be satisfied by the oath of the person claiming such damages that he has not been able to discover the owner or possessor of the dog or dogs, by which such damage was done, or that he has failed to recover his damages of such owner or possessor, it shall give an order on the supervisor of the town for the amount which it shall allow, who shall pay such order out of the funds arising from the provisions of this article.

§ 121. **Tax to pay orders for sheep killed.**—Whenever the amount of the orders for damages, given by the town board to the owners of sheep killed or injured by dogs, shall exceed the amount of the dog fund in the hands of the supervisor of such town, the

board of supervisors may add to the accounts of such town, the amount of such orders then due and unpaid ; but such sum shall in no case exceed the amount theretofore received into the dog fund of the town, and diverted therefrom, for the purpose of building and repairing highways and bridges, or for the payment of contingent expenses of such town, for the three years next preceding the date of such orders.

§ 122. **When owner shall refund.**—If, after receiving the amount of such damages from the supervisor, the owner of the sheep so killed or injured shall receive or recover the value or any part thereof, from the owner or possessor of the dog or dogs doing the damage, he shall repay to the supervisor the sum so recovered. In case of his refusal or neglect, the supervisor shall bring an action therefor against him in the name of the town, which sum, when received, shall be returned to the dog fund of the town.

§ 123. **Dogs chasing sheep to be killed.**—Any person may kill any dog which he shall see wrongfully chasing, worrying or wounding any sheep.

§ 124. **Owner to kill dog after notice.**—The owner or possessor of every dog, to whom notice shall be given of any injury done by his dog to any sheep, or of his dog having chased or worried any sheep, shall, within forty-eight hours after such notice, cause such dog to be killed ; for every neglect so to do, he shall forfeit two dollars and fifty cents, and the further sum of one dollar and twenty-five cents for every forty-eight hours thereafter, until his dog shall be killed, unless it shall satisfactorily appear to the court before which an action shall be brought for the recovery of the said penalties, that it was not in the power of such owner or possessor to kill such dog.

§ 125. **When justice may order dog killed.**—If any dog shall attack any person peaceably traveling on any highway, or his horse or team, and complaint thereof be made to a justice of the peace, such justice shall inquire into the complaint, and if satisfied of its truth, and that such dog is dangerous, he shall order the owner or possessor of such dog to kill him immediately. The owner or possessor of any dog, who shall refuse or neglect to kill him within forty-eight hours after having received such order, shall forfeit the sum of two dollars and fifty cents, and the further sum of one dollar and twenty-five cents for every forty-eight hours thereafter, until such dog is killed.

§ 126. **Who deemed owner of dog.**—Every person in possession of any dog, or who shall suffer any dog to remain about his house for the space of twenty days, previous to the assessment of a tax, or previous to any injury, chasing or worrying of sheep, or any such

attack made by a dog, shall be deemed the owner of the dog, for all the purposes of this article.

§ 127. **Penalties, collection and application of.**—The penalties imposed by this article for failure to kill dogs as prescribed therein shall be collected by the supervisor of the town where they are incurred, upon complaint being made to him for such failure, in the manner provided by the town law for the recovery of penalties given by law to a town for its use. Such penalties when so collected shall be paid into the town fund provided by this article for the payment of damages incurred by dogs killing sheep in such town.

Am'd by ch. 680 of 1896. In effect May 15, 1896.

ARTICLE VII.

COUNTY TREASURERS.

SECTION 140. Election, appointment, term of office and undertaking of county treasurer.

- 141. General powers and duties.
- 142. Time for making report extended.
- 143. Designate banks of deposit.
- 144. Depositary to give undertaking.
- 145. Treasurer not relieved from liability.
- 146. Moneys drawn, for what claims.
- 147. Delivery of books and funds to successor.
- 148. Penalty for neglect to report.
- 149. Extend the time for the collection of taxes.

§ 140. **Election, appointment, term of office, and undertaking of county treasurer.**—There shall continue, (1) to be elected in each of the counties a county treasurer, who shall hold his office for three years from and including, in the county of Kings, the first Tuesday of August; in the county of Monroe, the first Tuesday of October, and in the other counties, the first day of January, succeeding his election, and until his successor is duly elected and qualified; (2) To be appointed by the governor, by and with the consent of the senate, if in session, a county treasurer, when a vacancy shall occur in such office, and the person so appointed shall hold the office until and including, in the county of Kings, the first Monday of August; in the county of Monroe, the first Monday of October, and in the other counties, the last day of December, succeeding his appointment, and until his successor shall be duly elected and qualified. Every person elected or appointed to the office of county treasurer shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, give an undertaking to the county, with three or more sufficient sureties, with the approval of the board of supervisors, if in session, indorsed thereon by the clerk, otherwise with the approval of the county judge and county clerk, and in such sum as such board or judge and clerk approving the same shall direct, to the effect that such person shall faithfully execute the duties of his office, and shall pay over according to law, and account for all moneys.

property and securities which shall come to his hands as treasurer, and render a just and true account thereof to the board of supervisors when required, and obey all orders and directions of a competent court relating thereto. When in the opinion of the board of supervisors, the moneys intrusted to such person as treasurer shall be unsafe, or the surety insufficient, such board may require from such treasurer a new or further undertaking to the same effect as at first, and with like sureties; and if such county treasurer shall fail to renew such undertaking as required within twenty days after he shall be notified by such board of such request, such omission shall work a forfeiture of his office and the same shall become vacant. Such undertaking, with the approval indorsed thereon, shall be filed in the office of the county clerk. The sureties and county therein named shall be liable to the state for the payment to the state treasurer, according to law, of all moneys belonging to the state, which shall come into his hands as county treasurer, and for the rendering of a just and true account thereof to the state comptroller.

Am'd by chap. 222 of 1893.

§ 141. General powers and duties.—The county treasurer shall :

1. Receive all moneys belonging to the county, and all other moneys by law directed to be paid to him, and apply them, and render an account thereof, as required by law.

2. Keep a true account of the receipt and expenditure of all such moneys, in books prepared for the purpose, at the expense of the county.

3. Yearly, and at such other times as the board of supervisors shall by resolution require, make a true, written statement of his accounts generally, verified by his oath to be in all respects true, and file the same with the clerk of the county, and transmit a copy thereof by mail to the comptroller and state treasurer.

Am'd by ch. 281 of 1896. In effect April 17, 1896.

4. On or before the first day of March in each year transmit to the comptroller a statement of all moneys received by him during the preceding year for penalties belonging to the people of the state; and at the same time, pay to the treasurer of the state, the amount of such penalties, after deducting his compensation, in the same manner as state taxes are directed to be paid.

5. On or before the fifteenth day of April in each year pay to the treasurer of the state one-half of the state tax raised and paid over to him; and on or before the fifteenth day of May, the other half, retaining the compensation to which he may be entitled, which shall not in any case exceed the sum of two thousand dollars. If any county treasurer shall not pay over the state tax as herein directed, the comptroller shall charge on all sums withheld, such rate of interest as shall be sufficient to repay all expenditures incurred by the state in borrowing money, equivalent to the amount so withheld, and such additional rate as he shall deem proper, not exceeding ten per cent, from the first day of April in each year, which shall be regarded as funds in the hands of the county treasurer, belonging to the state, and for which his sureties and county shall be liable.

6. Within ten days after the first day of July in each year, make and file in the office of the clerk of his county, a special report, which shall contain a statement of all moneys or securities in his hands belonging to infants, or other persons, for whom invested, and how invested, with a particular description of such securities, containing a statement of the amount due thereon for principal and interest, with a statement of his account with each infant, up to the first day of July preceding the date of such report, the amount of fees charged by him, the amount in his hands, invested and uninvested, and to whom the same belongs; and if he has in his hands any money not invested, such report shall state the amount thereof, the length of time the same has been in his hands uninvested, and the reasons therefor; and whether the moneys so uninvested are for principal and interest, and the length of time any principal sum thereof shall have remained so uninvested, during the year preceding the date of such report; which report he shall verify to be in all respects true;

7. Exhibit to the board of supervisors, at their annual meeting, or whenever they direct, all his books and accounts, and all vouchers relating thereto, to be audited and allowed.

§ 142. **Time for making report extended.**—The time for making and filing any report herein required, may be extended twenty days by a justice of the supreme court, upon good cause shown; but no order shall be made, unless notice of the application of the same shall have been served on the district attorney of the county; and no such order shall be of any force or effect, until the original order signed by the justice, with the papers on which the same was granted, shall have been filed in the office of the county clerk.

§ 143. **Designate banks of deposit.**—Each county treasurer shall, within twenty days after he shall have entered upon the duties of his office, except in counties whose board of supervisors shall otherwise direct, designate by written instrument in duplicate, one copy of which shall be filed in the office of the county clerk and the other in the office of the state treasurer, one or more good and solvent banks, bankers, or banking associations, in such county; or if there shall be no such, then in an adjoining county within the state, for the deposit of all moneys received by him as such treasurer and agree with such bank or banks, banker or bankers, or banking associations, upon the rate of interest to be paid on the moneys so deposited. The accrued interest thereon, shall as often as once in six months, be credited by such depositary to the account of such county treasurer, for the use of his county; and he shall deposit with such depositary, or depositaries, at least once in each week, and in a county containing a city having more than ten thousand inhabitants, daily, all such moneys so received by him; but in a county having a city containing more than twenty thousand inhabitants, shall any bank, banker, or banking association, be selected as such depositary, which shall not have an unimpaired capital stock, at least one hundred thousand dollars. But nothing herein shall limit the power of any court or officer, by whose direction any moneys shall be paid over to, or received, by such treasurer, to direct in relation to the custody or investment thereof, or the disposition to be made of the interest thereon; and no interest received from any moneys so deposited which are not received for some public use shall belong to the county.

§ 144. **Depositary to give undertaking.**—Each bank, banker, or banking association, so designated, shall, for the benefit and security of the county, and before receiving any such deposit, give to the county a good and sufficient undertaking, with two or more sureties to be approved by the county judge of the county in which such bank, banker, or banking association, shall be located, the chairman of the board of supervisors of the county of which such treasurer is an officer, and such treasurer, or any two of them. Such undertaking shall specify the amount which such treasurer shall be authorized to have on deposit at any one time, with such depositary, and shall be to the effect that such depositary shall faithfully keep and pay over on the order, or warrant, of such treasurer, or on any other lawful authority, such deposits, and the agreed interest thereon, and for the payment of such bonds or coupons, as by the

terms are made payable at a bank or banks, for the payment of which a deposit shall be made by such treasurer with such depository. Such undertaking shall be filed by the clerk of the board of supervisors with the clerk of the county.

§ 145. **Treasurer not relieved from liability.**—Such designation and deposit of moneys shall not release the treasurer, or his sureties, from any liability in relation to such moneys, or in any manner affect such liability; but any default by such depository, shall be deemed a default of such treasurer, and he and his sureties shall be liable therefor.

§ 146. **Moneys drawn, for what claims.**—The county treasurer shall draw the moneys so deposited only for the payment of claims ordered to be paid by the board of supervisors, or other lawful authority, or of salaries of county officers, or pursuant to the lawful direction of some court; and if he shall draw or appropriate any money for any other purpose, it shall be deemed a malfeasance in office, and cause for removal therefrom. Nothing herein shall prevent such county treasurer from transferring any such moneys from one depository to another, which shall have duly qualified by giving security as herein provided.

§ 147. **Delivery of books and funds to successor.**—When the right of a county treasurer to his office expires, the books and papers belonging to the office, and all moneys in his hands by virtue thereof, shall, upon his oath, or if not living, upon the oath of his executor or administrator, be delivered to his successor. Any person violating this section shall forfeit to the county the sum of twelve hundred and fifty dollars. Such successor may recover such forfeitures, books, papers or money due, by action or other legal proceedings, in the name of his county, upon the official undertaking of such former county treasurer, or as otherwise authorized by law.

§ 148. **Penalty for neglect to report.**—If a county treasurer shall neglect to make any report or statement herein required of him, except as herein otherwise provided, he shall forfeit to the county a sum to be determined by the jury or court before whom the trial is had, not less than one hundred nor more than five hundred dollars, to be recovered by the district attorney, by action in the name of the county, against such treasurer and his sureties, or one or more of them.

§ 149. **Extension of time for the collection of taxes.**—The county treasurer may extend the time for the collection of taxes in any town or ward, but no extension shall be permitted until the

collector of taxes of the town, city or ward in which such extension shall be asked shall pay over to the county treasurer all the taxes collected by him, and renew his undertaking as the supervisor of his town shall approve, and furnish evidence by his oath, and other competent testimony, if any, as such treasurer shall require, that he has been unable, for cause stated, to collect all the taxes within the time required by his warrant; but such extension shall not in any case be made beyond the first day of April in any year, unless ninety per cent of such taxes shall have been collected and paid over to him.

ARTICLE VIII.

COUNTY CLERKS.

SECTION 160. Election, appointment, term of office and undertaking of county clerk.

161. General powers and duties.

162. Deputy clerk.

163. Duties of deputy.

164. Statement to board of supervisors.

165. Business hours in clerk's office.

§ 160. Election, appointment, term of office and undertaking of county clerk.—There shall continue,

1. To be elected in each of the counties a county clerk, who shall hold his office for three years from and including the first day of January succeeding his election :

2. To be appointed by the governor, a county clerk, when a vacancy shall occur in such office, and the person so appointed shall hold the office until and including the last day of December succeeding the first annual election after the happening of the vacancy.

Every person elected or appointed to the office of county clerk, shall, before he enters on the duties of his office, and if appointed, within fifteen days after notice thereof, execute an undertaking to the county, with at least two sureties, with the approval of the board of supervisors, if in session, indorsed thereon by the clerk of the board, otherwise with the approval of the county judge, or a justice of the supreme court residing in the county, to the effect that he will faithfully execute and discharge the duties of county clerk, and account for all moneys deposited with him pursuant to law, or the order of any court, or by his predecessor in office, and pay them over as required by law, or directed by such order.

§ 161. General powers and duties.—The county clerk shall:

1. Have the custody of all books, records, deeds, parchments, maps and papers, deposited in his office in pursuance of law, and attend to their arrangement and preservation.

2. Provide at the expense of the county, all necessary books for recording all papers, documents or matters authorized by law to be recorded in his office.

3. When a certificate of election, or appointment to any county office, or revocation thereof, is received at his office give immediate notice thereof, at the expense of the county, to every person named therein. When any other commission or appointment to office, or order of removal from office is received at his office, give immediate notice thereof, at the expense of the state, to every person named therein.

4. Give immediate notice to the governor, at the expense of the state, when there is a vacancy in any county office which he is authorized to fill; and the names of all persons elected or appointed to any such office who have neglected, within the time required by law, to file the constitutional oath of office, or the undertaking severally required of them; and on or before the fifteenth day of January in each year, the names of all persons elected or appointed to a county office in his county during the preceding year, who have duly qualified.

5. On or before the first day of January in each year, report to the secretary of state, at the expense of the state, the names of all corporations whose certificates of incorporation have been filed in his office during the previous year.

6. Keep in his office a book, free at all times to public inspection, in which shall be entered all fees charged or received by him for any official service, the time of receiving it, its nature, and the persons for whom rendered.

§ 162. Deputy clerk.—Every county clerk shall, within ten days after entering upon the duties of his office, make, under his hand and seal, and record in his office, a written appointment of some suitable person to be deputy clerk of his county. In counties containing a population of more than one hundred thousand by the last preceding federal census or state enumeration, the county clerk may, in like manner, appoint not to exceed two additional deputies. Every such deputy shall hold office during the pleasure of the clerk. When any such deputy is temporarily absent, disqualified or disabled, the clerk shall appoint some one of his assistants to act as a deputy in his place for a period not exceeding thirty days and without any additional compensation. Before any such deputy enters on his duties as such, he shall take the constitutional oath of office. If there shall be no county clerk, or deputy county clerk, or assistant authorized to act as deputy, the county judge may designate in writing, to

be recorded in the county clerk's office, a suitable person to act as county clerk with all the powers, duties and privileges of the office, and subject to the liabilities thereof, until a county clerk shall have been elected or appointed, and qualified.

Am'd by ch. 48 of 1896. In effect February 29, 1896.

§ 163. Duties of deputy.—Any such deputy may perform such duties of the clerk as may be assigned to him by an order of the clerk to be entered in his office, and shall also perform all the duties of the clerk when the clerk shall be absent from his office, or shall be incapable of performing the duties thereof, or when the office shall become vacant, until it shall be filled, except that of deciding upon the sufficiency of sureties, which duty shall devolve upon the county judge.

Am'd by ch. 48 of 1896. In effect February 29, 1896.

§ 164. Statement to board of supervisors.—Every county clerk shall present to the board of supervisors of his county, upon the first day of their annual meeting, a statement, verified by his oath to be true, showing for the year preceding the first day of January :

1. The amount of all fees charged or received for searches, and for certificates thereof.

2. The amount of all fees charged or received for recording any documents in his office, and for certificates thereof.

3. The amount of all sums charged or received for services rendered the county.

4. The amount of all sums charged or received for official services.

5. The sums paid by him for assistance, fuel, lights, stationery and other incidental expenses, the names of the persons paid and the items thereof; but he shall not make any charge against the county for stationery, except record books and stationery furnished by him for courts held in his county, but the board of supervisors may allow the county clerk the necessary expenses incurred by him for lighting and heating his office.

Am'd by ch. 593 of 1896. In effect May 12, 1896.

§ 165. Business hours in clerks' offices.—Clerks of counties, courts of record, and registers of deeds, except in the counties of New York and Kings, as hereinafter provided, shall respectfully keep open their offices for the transaction of business every day in the year, except Sundays and other days and half-days declared by law to be holidays or half-holidays, between the thirty-first day of March and the first day of October next following, from eight o'clock in the forenoon to five o'clock in the afternoon, and between the thirtieth day of September and the first day of April next following, from nine o'clock in the forenoon to five o'clock in the afternoon. In the counties of New York and Kings said offices shall remain open during the months of July and August in each year from nine o'clock in the forenoon to two o'clock in the afternoon, and during the other months in each year from nine o'clock in the forenoon to four o'clock in the afternoon.

Am'd by chap. 961 of 1895. Took effect June 6, 1895. This section was also amended by chap. 144 of 1895, which took effect March 21, 1895, and continued till June 6, 1895. See chap. 144 on page 78hh.

ARTICLE IX.

SHERIFFS AND CORONERS.

Election, appointment and terms of office of sheriffs and coroners
 and the undertakings of sheriffs.
 Under-sheriffs.
 Deputies.
 Custody of jails.
 Sheriff's offices.
 Fees for services for the state.
 Removal of sheriff for non-payment of moneys.
 When a coroner to act as sheriff.
 When other designations to be made.
 When county judge to appoint.
 General provisions.

Election, appointment and term of office of sheriffs
 and the undertakings of sheriffs.—There shall

be elected in each of the counties a sheriff and four coroners
 respectively hold their office for three years from and
 the first day of January succeeding their election ;
 appointed by the governor, a sheriff, or a coroner, when
 an vacancy occur in either of such offices, and the person so ap-
 pointed hold the office until and including the last day of
 the year succeeding the first annual election thereafter, at which
 election he can be lawfully filled.

A person elected or appointed to the office of sheriff shall, be-
 fore entering upon the duties of his office, and if appointed, within
 ten days after notice thereof, execute and deliver to the county
 clerk, a joint and several undertaking to the county,
 with such clerk, to the effect that such sheriff will, in all
 the performance and execute the office of sheriff of his county dur-
 ing the term of his office, without fraud or deceit. Such under-
 taking shall be filed in the office of the county clerk ; and the clerk
 at the time of his approval thereof, examine each surety
 and his oath ; and he shall not approve of such undertaking,
 unless he appear on such examination that such sureties are
 worth at least fifteen thousand dollars over and above all
 their debts ; which examination, subscribed by the sureties,
 shall be used on or attached to the undertaking ; but the clerk
 shall not be bound to examine the sufficiency of each surety. In the same manner
 the undertaking shall be renewed within the twenty days after the first

Monday of January in each year subsequent to that in which he shall have entered upon the duties of his office.

§ 181. **Under-sheriffs.**—Each sheriff shall, within ten days after he enters on the duties of his office, appoint some proper person under-sheriff of his county, to hold during his pleasure. When a vacancy shall occur in the office of sheriff, the under-sheriff shall, in all things, execute the duties of the office as sheriff, until a sheriff shall be elected or appointed and duly qualified; and any default or misfeasance in the office of such under-sheriff in the mean time, as well as before, shall be deemed to be a breach of the undertaking given by the sheriff who appointed him and also a breach of the undertaking executed by such under-sheriff, to the sheriff by whom he was appointed.

§ 182. **Deputies.**—Such sheriff may appoint such and so many deputies as he may deem proper, not exceeding one for every three thousand inhabitants of the county; any person may also be deputed by any sheriff or under-sheriff by written instrument, to do particular acts. Every appointment of an under-sheriff or of a deputy sheriff shall be in writing under the hand and seal of the sheriff and filed and recorded in the office of the clerk of the county; and every such under-sheriff or deputy sheriff shall, before he enters upon the execution of the duties of his office take the constitutional oath of office; but this last provision shall not extend to any person who may be deputed by any sheriff or under-sheriff to do a particular act only.

§ 183. **Custody of jails.**—Each sheriff shall have the custody of the jails of his county and the prisoners therein and such jails shall be kept by him, or by keepers appointed by him, for whose acts he shall be responsible.

§ 184. **Sheriffs' offices.**—Every sheriff shall keep an office in some proper place in the city or village in which the county courts of his county are held, of which he shall file a notice in the office of the county clerk. If there be more than one place of holding such courts, the notice shall specify in which place his office shall be kept, or it may be specified that an office will be kept in all such places. Every sheriff's office, except in the counties of Kings and New York as hereinafter provided, shall be kept open, except Sundays and other days and half days declared by law to be holidays or half-holidays, from nine o'clock in the morning until five o'clock in the afternoon, during the months of November, December, January, February and March of each year, and from eight o'clock in the morning until six o'clock in the afternoon during the other months in each year. Every notice or other paper required to be served on any sheriff may be served by leaving the same at the office designated by him in such notice during the days and hours for which he is required to keep such office open, but if there be any person belonging to such office therein, such notice or paper shall be delivered to such person, and every such service shall be deemed equivalent to a personal service on

such sheriff. In the counties of Kings and New York said offices shall remain open during the entire year from nine o'clock in the forenoon to four o'clock in the afternoon, except Sundays and other days and half-days declared by law to be holidays or half-holidays.

Am'd by ch. 718 of 1895. Took effect May 23, 1895. This section was amended by ch. 150 of 1895, which went into effect March 21, 1895, and continued till May 23, 1895. See ch. 150 on page 78hh.

§ 185. Fees for service for the state.—When a sheriff shall be required by any statute to perform any service in behalf of the people of this state, and for their benefit, which shall not be made chargeable by law to his county, or to some officer, body or person, his account for such services shall be audited by the comptroller and paid out of the state treasury.

§ 186. Removal of sheriff for non-payment of moneys.—When a sheriff shall be committed to the custody of any other sheriff, or to any coroner by virtue of an execution or attachment for the non-payment of moneys received by him by virtue of his office, and shall remain so committed for the space of thirty days successively, such facts shall be presented to the governor by the officer in whose custody such sheriff may be, to the end that such sheriff may be removed from office.

§ 187. When a coroner to act as sheriff.—When a vacancy shall occur in the office of sheriff, and there shall be no under-sheriff of the county then in office, or the office of such under-sheriff shall become vacant, or he become incapable of executing the duties of the same before another sheriff of the same county shall be elected or appointed and qualified, and there shall be more than one coroner of such county then in office, the county judge of such county shall forthwith designate one of such coroners to execute the duties of the office of sheriff of the county, until a sheriff thereof shall be elected or appointed and qualified. Such designation shall be by a written instrument, signed by the judge, and filed in the office of the clerk of the county, and the clerk shall immediately give notice thereof to such coroner. Within six days after receiving such notice, such coroner shall execute a joint and several undertaking, with the same number of sureties, to be approved in the same manner and be subject in all respects to the same regulations as the security required by law from the sheriff of such county. After the execution and filing of such undertaking in the clerk's office, such coroner shall execute the duties of the office of sheriff of the same county until a sheriff shall be duly elected or appointed and qualified.

§ 188. When other designations to be made.—When the coroner so designated shall not, within the time specified, give the security required of him, the county judge shall, in like manner, designate another coroner of the county to assume the office of sheriff,

and, if necessary, he shall make successive designation until all the coroners of the county shall have been designated to assume such office; and all the provisions contained in the last preceding section shall apply to every such designation and to the coroner named therein. If such vacancy shall occur when there shall be but one coroner of the county then in office, he shall be entitled to execute the duties of the office of sheriff therein until a sheriff shall be duly elected or appointed and qualified; but before he enters upon the duties of such office, and within ten days after the happening of the last vacancy in the office of the sheriff and under-sheriff, he shall execute with sureties a joint and several undertaking, the same as is required by law from a sheriff; and such undertaking shall be subject in all respects to the same regulations as the security required from the sheriff.

§ 189. When county judge to appoint.—If such coroner so in office on the happening of such vacancies shall neglect or refuse to execute such undertaking within the time required, or if all the coroners, where there are more than one in office in such event, shall successively neglect or refuse to execute the undertaking within the time required, the county judge shall appoint some suitable person to execute the duties of the office of sheriff in his county, until a sheriff therein shall be duly elected or appointed and qualified. Such appointment shall be made and filed in the same manner as the above designations are made and filed, and the clerk shall forthwith give notice thereof to the person so appointed, who shall, within six days thereafter, and before he enters upon the duties of his office, give such security as is required by law of sheriffs, and subject to the same regulations; and thereupon such person shall execute the duties of the office of sheriff of the county until a sheriff shall be duly elected or appointed, and qualified.

§ 190. General provisions.—Until some coroner designated, or some person appointed by the judge shall have executed the security above required, or until a sheriff of the county shall have been duly elected or appointed, and qualified, the coroner or coroners of the county in which such vacancies shall exist shall execute the duties of the office of sheriff therein; and when any under-sheriff, coroner, coroners or other person shall execute the duties of the office of sheriff, pursuant to either of the foregoing provisions, the person so executing the same shall be subject to all the duties, liabilities and penalties imposed by law upon the sheriff duly elected and qualified, and he shall be entitled to the same compensation.

ARTICLE X.

DISTRICT ATTORNEYS.

SECTION 200. Election, appointment; term of office and undertaking of district attorney.

201. Annual report.

202. Assistant district attorneys.

203. In Erie and Monroe counties.

204. Employment of counsel by district attorney.

§ 200. Election, appointment, term of office and undertaking of district attorney.— There shall continue,

1. To be elected in each of the counties a district attorney, who shall hold his office for three years from and including the first day of January succeeding his election;

2. To be appointed by the governor, a district attorney, when a vacancy shall occur in such office, and the person so appointed shall hold the office until and including the last day of December succeeding the first annual election thereafter at which such vacancy can be lawfully filled.

3. Except in the county of Kings, every person elected or appointed to the office of district attorney, shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, execute and deliver, to the county clerk of his county, a joint and several undertaking to the county, approved by the county judge, with two or more sufficient sureties, being resident freeholders, to the effect, that he will faithfully account for and pay over according to law, or as the court may direct, all moneys that may come into his hands as such district attorney.

§ 201. Annual report.— Every district attorney shall, on or before the first Tuesday in October, annually file in the office of the county treasurer a written account verified by his oath to be true, of all moneys received by him by virtue of his office during the preceding year; and shall, at the same time, pay over any balances thereof to the county treasurer. If he shall refuse or neglect to account for and pay over such moneys as so required of him, the county treasurer shall prosecute him and his sureties for the same, in the name of and for the benefit of his county.

§ 202. Assistant district attorneys.— In any county having, according to the last preceding federal or state enumeration, more than seventy thousand inhabitants, the district attorney may, when authorized by the board of supervisors, appoint a suitable person, who must be a counselor-at-law, in this state, and a citizen and resi-

dent of the county to be his assistant. Every appointment of an assistant district attorney shall be in writing, under the hand and seal of the district attorney, and filed in the office of the county clerk; and the person so appointed, shall take and file with the clerk the constitutional oath of office, before entering upon his duties as such assistant district attorney. Every such appointment may be revoked by the district attorney making the same, which revocation shall be in writing and filed in the clerk's office. Such assistant district attorney may attend all criminal courts, and discharge any duties imposed by law upon, or required of the district attorney by whom he was appointed.

§ 203. In Erie and Monroe counties.—The district attorneys of Erie and Monroe counties may each appoint, in and for their respective counties, in the manner provided in the last section and with like powers two assistants, to be called respectively the first and second assistant district attorneys, and a managing clerk who shall severally take the constitutional oath of office before entering upon the duties thereof; and the district attorney shall be responsible for their acts. They may also each appoint a person to act as interpreter at all sessions of the grand juries of the counties of Erie and Monroe and of the city of Buffalo, whose compensation shall be fixed by the court in and for which such grand jury may be impaneled. The district attorneys of the counties of Erie and Monroe shall each be entitled to receive in addition to their salary all costs collected by them in actions and proceedings prosecuted and defended by them.

Am'd by chap. 70 of 1893.

§ 204. Employment of counsel by district attorney.—The district attorney of any county in which a capital or other important criminal action is to be tried, with the approval in writing of the county judge of the county, which shall be filed in the office of the county clerk, may employ counsel to assist him on such trial; and the costs and expenses thereof, to be certified by the judge presiding at the trial, shall be a charge upon the county in which the indictment is found.

ARTICLE XI.

SUPERINTENDENTS OF THE POOR.

SECTION 210. Election, appointment, and terms of office of superintendents of the poor.

211. Undertaking.

§ 210. Election, appointment, and term of office of superintendents of the poor.—There shall continue to be elected or appointed in each of the counties one or more superintendents of

the poor as heretofore; but no supervisor of a town, or county treasurer, shall be elected or appointed to such office. The board of supervisors of any county having, or entitled to have three or more superintendents of the poor, may, at an annual meeting thereof, determine by resolution that thereafter only one county superintendent of the poor shall be elected; but no superintendent of the poor shall be elected or appointed in such county until the general election next preceding the expiration of the terms of the superintendents in office, or the office shall be vacant. The term of any superintendent in office, or of any person duly elected thereto on the passage of such resolution, shall not be affected thereby. Such board may also, in counties having and entitled to have but one superintendent of the poor, in like manner determine that thereafter three superintendents of the poor be elected for such county. After the passage of a resolution, as herein provided, the powers herein conferred shall not be again exercised within a period of five years. Such resolution shall not take effect until the next calendar year succeeding its adoption.

There shall continue,

1. To be elected annually in each of the counties so having and being entitled to three county superintendents, one county superintendent of the poor, who shall hold his office for three years from and including the first day of January succeeding his election, and until his successor is duly elected and qualifies;

2. To be appointed by the board of supervisors, if in session, otherwise by the county judge, a county superintendent of the poor, when a vacancy shall occur in such office, and the person so appointed shall hold the office until and including the last day of December succeeding his appointment, and until his successor shall be elected and qualifies;

3. To be elected a county superintendent of the poor in a county when a vacancy shall occur in such office, and the term of which shall not expire on the last day of the next succeeding December, and the person so elected shall hold the office for such unexpired term, which shall be designated upon the ballots of the electors, or until his successor shall be elected and qualifies;

4. To be elected in each of the counties so having, and entitled to have but one superintendent, a superintendent of the poor, who shall hold his office for three years from and including the first day of January succeeding his election, and until his successor is duly elected and qualifies;

5. To be appointed by the board of supervisors, if in session, otherwise by the county judge, a superintendent of the poor, in a county having and being entitled to but one superintendent, when a vacancy shall occur in such office; and the person so appointed shall hold the office until and including the last day of December succeeding his appointment, and until his successor shall be elected and qualifies;

6. To be elected in the succeeding year after the board of supervisors of a county having but one superintendent of the poor, shall have adopted a resolution to have three superintendents, if the term of the superintendent in office expires with such year, three superintendents of the poor for such county, for the terms of one, two and three years respectively, which terms shall be respectively designated upon the ballots of the electors voting for such officers. If the term of the superintendent in office will not expire with such succeeding year, there shall be elected two superintendents of the poor for such county, for such terms, to be so designated upon the ballots of the electors voting for such officers, as will make the terms of one of the three superintendents expire with each succeeding year, and one superintendent of the poor shall hereafter be annually elected. Such persons so elected shall hold the office from and including the first day of January succeeding his election, and until and including the last day of December of the year in which his term shall so expire, and until his successor is duly elected and qualifies. When ballots are voted without designating the term, the first name on the ballot shall be deemed as intended for the full or longer term of the officer voted for; the second name for the next longer term, and the third name for the shorter term.

§ 211. **Undertaking.**—Every person elected or appointed to the office of superintendent of the poor shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, execute and deliver to the clerk of the county, to be filed in his office, his undertaking to the county, with two or more sufficient sureties, with the approval of the board of supervisors, if in session, indorsed thereon by the clerk; otherwise by the county judge of his county, or a justice of the supreme court of his judicial district, to the effect that he will faithfully discharge the duties of his office as such superintendent of the poor, and pay according to law all moneys that shall come into his hands as such superintendent, and render a just and true account thereof to the board of supervisors of his county.

ARTICLE XII.

COUNTY JUDGE, SURROGATE, SPECIAL COUNTY JUDGE, SPECIAL
SURROGATE AND JUSTICES OF SESSIONS.

SECTION 220. Election, appointment and term of office of county judge, surrogate, special county judge and special surrogate, and designation of justices of sessions.

221. Creation and undertaking of surrogate.

222. Compensation of county judges and surrogates.

223. When and how paid.

§ 220. Election, appointment and term of office of county judge, surrogate, special county judge and special surrogate, and designation of justices of sessions.—There shall continue to be elected in each of the counties now having such officers.

1. A county judge and a surrogate, who shall severally hold the office for six years from and including the first day of January succeeding his election.

2. A special county judge and a special surrogate, pursuant to the several acts of the legislature creating and respectively defining the terms and duties thereof.

3. There shall continue to be appointed by the governor, by and with the consent of the senate, if in session, a county judge, surrogate, special county judge or special surrogate, when a vacancy shall occur in either of such offices, and the person so appointed shall hold the office until and including the last day of December succeeding the first annual election thereafter at which such vacancy can be lawfully filled.

4. There shall continue to be designated two justices of the peace of the county, having at least one year to serve from the first day of January succeeding their designation, to be justices of sessions for the county during the calendar year commencing on the first day of January succeeding their designation. Each elector may place upon his ballot at each general election under the words "for sessions," the name of one such justice of the peace and the two justices of the peace representing the two principal political parties into which the electors of the county are divided receiving the greatest number of votes shall be designated as such justices of the sessions for such term.

§ 221. Creation and undertaking of surrogate.—The board of supervisors of any county, except Kings, having a population exceeding forty thousand, may, by resolution at a meeting thereof, determine that the office of surrogate therein shall be a separate office, and provide for the election of such officer therein. The clerk of

the board shall immediately deliver the resolution to the county clerk, who shall file the same in his office and, within ten days thereafter, transmit a certified copy thereof to the secretary of state; and thereafter a surrogate shall be elected for such county. Every person elected or appointed to the office of surrogate or county judge, where there is no separate office of surrogate, shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, execute and deliver to the county clerk of his county a joint and several undertaking, with two or more sureties being resident freeholders, to be approved by such clerk, to the effect that he will faithfully perform his duties as such surrogate, and apply and pay over all moneys and effects that may come into his hands as such surrogate in the execution of his office; which undertaking shall be immediately filed in the office of such county clerk.

§ 222. **Compensation of county judges and surrogates.**—The annual salaries of county judges and surrogates in the several counties, are fixed at the sums respectively set opposite the names of each county in the following schedule, to wit:

Subd.	NAME OF COUNTY.	Salary of county judge.	Salary of surrogate.
1....	Albany.....	\$4, 500 00	\$4, 000 00
2....	Allegany	2, 750 00	
3....	Broome.....	3, 000 00	.
4....	Cattaraugus.....	1, 500 00	1, 500 00
5....	Cayuga.....	2, 000 00	2, 000 00
6....	Chautauqua.....	2, 000 00	1, 600 00
7....	Chemung.....	3, 000 00	
8....	Chenango.....	3, 000 00	.
9....	Clinton.....	1, 200 00	1, 800 00
10....	Columbia.....	2, 000 00	2, 500 00
11....	Cortland.....	2, 500 00	
12*...	Delaware.....	3, 000 00	
13....	Dutchess.....	2, 000 00	2, 000 00
14....	Erie.....	5, 000 00	6, 000 00
15....	Essex.....	2, 500 00	
16....	Franklin.....	2, 000 00	
17....	Fulton.....	2, 250 00	
18....	Genesee.....	2, 500 00	
19....	Greene.....	2, 000 00	
20....	Hamilton.....	800 00	
21....	Herkimer.....	3, 000 00	
22....	Jefferson.....	1, 500 00	1, 500 00
23....	Kings.....	10, 000 00	10, 000 00

* Am'd by chap. 227 of 1894. Took effect March 31, 1894.

Subd.	NAME OF COUNTY.	Salary of county judge.	Salary of surrogate
24....	Lewis	\$2,400 00	
25....	Livingston	3,000 00	
26....	Madison	3,000 00	
27....	Monroe	5,000 00	\$4,500 00
28†....	Montgomery	1,400 00	1,600 00
29....	Niagara	1,500 00	1,500 00
30†....	Oneida	3,000 00	3,500 00
31....	Onondaga	4,000 00	3,500 00
32....	Ontario	2,000 00	1,500 00
33....	Orange	1,500 00	2,500 00
34....	Orleans	2,000 00	
35....	Oswego	1,500 00	1,500 00
36....	Otsego	1,800 00	1,500 00
37....	Putnam	2,000 00	
38....	Queens	4,000 00	5,000 00
39....	Rensselaer	3,500 00	*5,000 00
40....	Richmond	5,000 00	
41....	Rockland	3,600 00	
42....	St. Lawrence	1,750 00	1,750 00
43....	Saratoga	2,000 00	2,500 and \$500 for clerk hire.
44....	Schenectady	2,000 00	
45....	Schoharie	2,500 00	
46....	Schnyler	1,500 00	
47....	Seneca	1,500 00	
48....	Steuben	1,500 00	2,000 00
49....	Suffolk	1,500 00	2,500 00
50....	Sullivan	1,200 00	
51....	Tioga	2,500 00	
52....	Tompkins	2,500 00	
53....	Ulster	3,000 00	3,000 00
54....	Warren	3,000 00	
55....	Washington	1,200 00	1,500 00
56....	Wayne	2,000 00	
57....	Westchester	6,000 00	6,000 00
58....	Wyoming	2,500 00	
59....	Yates	1,500 00	

§ 223. When and how paid.—Such salaries, except in the county of Kings, shall be paid quarterly, by the county treasurer of the respective counties. When a county judge of one county shall hold a county court, or preside at a court of sessions, in any other county, he shall be paid the sum of five dollars per

* Am'd by chap. 50 of 1893.

† Am'd by chap. 616 of 1894. To take effect January 1, 1895.

‡ Am'd by chap. 340 of 1894. Took effect July 1, 1894. See page 78, *post*.

day for his expense in going to, and from, and holding or presiding at such court, which shall be paid by the county treasurer of such other county, on the presentation of the certificate of the clerk of such court of the number of days; but no such compensation shall be paid, except in case of sickness or disability of the county judge of the county in which such court is held.

ARTICLE III.

MISCELLANEOUS.

SECTION 230. County charges.

231. Compensation of public officers in Ulster county.

232. County charges, how paid.

233. Annual report of the county officers.

234. Recovery and disposition of moneys.

235. Official seals.

236. General provisions relating to county officers.

237. General provisions relating to official bonds and undertakings.

238. Laws repealed.

239. When to take effect.

§ 230. County charges.—The following are county charges:

1. Charges incurred against the county by the provisions of this chapter;

2. All expenses necessarily incurred by the district attorney in criminal actions or proceedings arising in his county;

3. The compensation of the county officers, their subordinates and assistants, which are payable by the county;

4. The compensation of the criers of the court of record within the county for attendance thereat, at three dollars per day and also traveling fees, at the rate of five cents per mile, for going to and returning from the place of attendance.

Am'd by ch. 439 of 1896. In effect, May 9, 1896.

5. The compensation of the sheriff for the commitment* and charge of his prisoners on criminal process within the county, for summoning constables to attend court;

6. Compensation allowed by law to constables for attending court of record, and the compensation allowed by law to constables and other officers, for executing process on persons charged with a felony for services and expenses in conveying such persons to jail; and the service of subpoenas issued by the district attorney and other services in relation to criminal proceedings and support of prisoners in transit, for which no specific compensation is prescribed by law, and which are not a town charge, as prescribed by art. seven, of the town law; but no charge for issuing or serving a subpoena in any criminal action or proceeding issued or served

* So in the original.

behalf of a defendant shall be allowed, unless otherwise ordered by the court in which the action or proceeding was pending;

7. The expenses necessarily incurred in the support of persons charged with, or convicted of crimes, and committed to the jails of the county;

8. The sums required by law to be paid to witnesses in criminal actions and proceedings;

9. The moneys necessarily expended by any county officer in executing the duties of his office in cases in which no specific compensation for such services is provided by law;

10. The accounts of the coroners of the county for such services as are not chargeable to the person employing them;

11. The accounts of the county clerks, for the services and expenses incurred under the law respecting elections, other than for militia and town officers;

12. The sums required to pay the bounties authorized by resolution of the board of supervisors for the destruction of wild animals and noxious weeds, unless the supervisors by resolution direct that any such bounties shall be town charges.

Am'd by chap. 116 of 1893.

13. The compensation of the members of the board of supervisors;

14. The charges and accounts for services rendered by justices of the peace in the examination of felons, and in other criminal proceedings as mentioned in section 165, of the town law, when not otherwise provided for;

15. The expenses necessarily incurred, and sums authorized by law, or by the board of supervisors, pursuant to law, to be raised for any county purpose;

16. The reasonable costs and expenses in proceedings before the governor for the removal of any county officer upon charges preferred against him, including the taking and printing of the testimony therein;

17. All judgments duly recorded against a county;

18. All damages recovered against, or costs and expenses lawfully incurred by a county officer in prosecuting or defending an action or proceeding brought by or against the county or such officer, for an official act done, when such act was done, or such action or proceeding was prosecuted or defended pursuant to law, or by authority of the board of supervisors; and any such damages so recovered, or costs and expenses incurred by any such officers, for any act done in good faith in his official capacity, without any such authority, may be made a county charge by a majority vote of all the members elected thereto.

§ 231. Compensation of public officers in Ulster county.—There shall be allowed to the several public officers in the county of Ulster the following annual salaries to be paid quarterly:

1. To the superintendent of the poor fifteen hundred dollars ;
2. To the county treasurer twenty-five hundred dollars.

Am'd by chap. 467 of 1898.

The board of supervisors shall not audit or allow to the sheriff of the county more than six thousand dollars in any year for his services and expenses ; nor to the clerk of the county more than twelve hundred dollars for his services and expenses in any one year.

§ 232. County charges, how raised.—The moneys necessary to defray the county charges of each county shall be levied on the taxable property in the several towns therein, in the manner prescribed in the general laws relating to taxes ; and in order to enable the county treasurer to pay such expenses as may become payable from time to time, the board of supervisors shall annually cause such sum to be raised in advance in their county, as they may deem necessary for such purpose.

§ 233. Annual report of county officers.—Each county officer who shall receive, or is authorized by law to receive, any money on account of fines or penalties or other matter in which his county, or any town or city therein, shall have an interest, shall annually make a written report to the board of supervisors of his county, verified to be true, bearing date the first day of November, stating the time when, and the name of every person from whom, such money has been received, the amount thereof, on what account received, and the sums remaining due and unpaid ; and if no such money has been received, his report shall so state. Such report shall be filed with the clerk of the board, on or before the fifth day of November ; and no officer shall be entitled to receive payment for his services, unless he shall file with the supervisors, or other officers performing their duties, his affidavit that he has made such report, and paid over all moneys which he is required to pay over, within ninety days after receiving any such money, such officers shall pay the same without any deduction to the treasurer of his county, who shall execute duplicate receipts therefor, one of which he shall deliver to the person paying the money, and attach the other to his annual report herein required ; but nothing herein shall be construed to apply to moneys received by any town or city officer in his official capacity, as such, specially appropriated for any town or city purpose.

§ 234. Recovery and disposition of moneys.—The district at

torney shall sue for and recover, in behalf of, and in the name of, his county, the money received by any officer for, or on account of, his county, or any town or city therein, and not paid to the county treasurer, as herein required. All moneys belonging to any town or city in such county, which shall be received by the county treasurer, shall be distributed to the several towns or cities entitled to the same, by resolution of the board of supervisors, which shall be entered in the minutes of its proceedings.

§ 235. **Official seals.**—The official seals of boards of supervisors of the several counties, county seal, county treasurer's seal, surrogate's seal, and the seal of register of deeds, shall continue to be the official seals, respectively, of such boards, county, treasurer, surrogate, and register of deeds, and need as such, respectively, when authorized by law. When any such seal shall be lost, destroyed, or become unfit for use, the board of supervisors of the county interested therein or not having such seal, shall cause a new seal or seals to be made at the expense of the county. A description of each of such seals, together with impressions therefrom, shall be filed in the office of the county clerk and in the office of the secretary of state, unless it has already been done. In counties having two county seats, a duplicate of the county seal shall be procured and kept at the county seat where the county clerk's office is not situated, at some place to be designated by the county clerk, and may be used by him the same as at his office.

§ 236. **General provisions relating to county officers.**—Elected officers shall be chosen at general elections. A person in office, when this act takes effect, shall continue to hold the same until the expiration of the term for which he was elected or appointed; and a person thereafter elected to any such office on or before entering upon the duties thereof, and a person thereafter appointed to any such office within ten days after notice thereof, and before entering upon the duties of his office, shall take and subscribe before the county clerk, or county judge of the county, the constitutional oath of office; and the same, with his certificate of election or appointment, shall be immediately filed in the office of the county clerk.

§ 237. **General provisions relating to official bonds and undertakings.**—Every undertaking required by this chapter must be executed by the officer or person in whose behalf it is given, and his sureties, and duly acknowledged or proven and certified, and the approval indorsed thereon. The parties executing the same shall be

jointly and severally liable, regardless of its form in that respect, for the damages sustained by reason of a breach thereof.

Every officer or board required to approve an undertaking may examine each surety thereto under oath, and shall not approve the same unless the sureties are freeholders of the state and jointly worth over and above their debts and liabilities at least double a sum which such officer or board may fix upon and insert in the undertaking as reasonably sufficient to indemnify the county, and every person who may be or become interested therein, or in any breach thereof.

Official bonds and undertakings, including the bonds of executors, administrators, guardians and trustees, required by law to be filed in the office of the county clerk or surrogate, shall also be recorded in such offices respectively, in a book to be provided and kept in each of such offices, to be designated "book of official bonds and undertakings." The county clerk and surrogate's clerk shall respectively be entitled to the same fees for such recording, as are allowed to county clerks for recording conveyances, except that in counties where the surrogate's clerk is a salaried officer he shall not be entitled to any fee for such services.

§ 238. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

§ 239. **When to take effect.**—This chapter shall take effect immediately.

SCHEDULE OF LAWS REPEALED.

Revised Statutes.		Sections.
Part 1, chapter 12.....	All.	
Part 4, chapter 3, articles 1 and 2.....	All.	
Part 1, chapter 20, title 17.....	All.	
Part 3, chapter 8, title 4, article 4.....	104, 105 and 106.	
Part 3, chapter 3, title 2, article 2.....	54-61 inclusive.	
LAWS OF		Section.
1829.....	352.....	All.
1830.....	320.....	4.
1831.....	237.....	1.
1836.....	117.....	All.
1838.....	314.....	All.
1839.....	369.....	1.
1844.....	125.....	All.
1847.....	276.....	8 to 14, inclusive.

LAWS OF	Chapter	Section.
1847.....	460.....	1 to 28, inclusive.
1847.....	455.....	14.
1847.....	498.....	All.
1848.....	164.....	All.
1848.....	136.....	All.
1848.....	327.....	All.
1849.....	116.....	All.
1849.....	194.....	All.
1849.....	360.....	All.
1850.....	346.....	All.
1850.....	12.....	All.
1851.....	175.....	2, 3.
1852.....	304.....	All.
1853.....	80.....	All.
1853.....	481.....	All.
1855.....	249.....	All.
1856.....	108.....	All.
1858.....	190.....	All.
1859.....	386.....	All.
1862.....	244.....	All.
1862.....	298.....	All.
1863.....	393.....	All.
1863.....	404.....	All.
1864.....	197.....	All.
1864.....	341.....	All.
1865.....	148.....	All.
1869.....	855.....	All.
1870.....	361.....	All.
1870.....	432.....	All.
1870.....	506.....	1.
1870.....	507.....	All.
1870.....	752.....	All.
1871.....	239.....	All.
1871.....	274.....	All.
1871.....	695.....	All.
1871.....	859.....	All.
1872.....	17.....	All.
1872.....	285.....	All.
1872.....	319.....	All.
1872.....	587.....	All.
1872.....	767.....	All.
1872.....	883.....	All.
1873.....	119.....	All.
1873.....	323.....	All.
1873.....	760.....	Clause in § 2 fix- ing the time for counties to pay their quota of state taxes.
1874.....	64.....	All.

LAWS OF	Chapter	Section.
1874.....	323.....	Clause in § 1 ing to the en ment of cou assist distric neys and c proceedings move coun ficers.
1874.....	410.....	All.
1874.....	502.....	All.
1875.....	464.....	All.
1875.....	480.....	All.
1875.....	482.....	All.
1876.....	257.....	All.
1876.....	258.....	All.
1876.....	373.....	All.
1877.....	21.....	All.
1877.....	102.....	All.
1877.....	401.....	All.
1877.....	436.....	All.
1878.....	8.....	All.
1878.....	122.....	All.
1878.....	132.....	All.
1878.....	228.....	All.
1878.....	239.....	All.
1878.....	259.....	All.
1878.....	285.....	All.
1879.....	275.....	All.
1879.....	285.....	All.
1879.....	307.....	All.
1879.....	330.....	All.
1879.....	355.....	All.
1879.....	357.....	All.
1879.....	362.....	All.
1880.....	175.....	All.
1880.....	233.....	All.
1880.....	270.....	All.
1880.....	504.....	All.
1880.....	512.....	All.
1881.....	12.....	All.
1881.....	97.....	All.
1881.....	302.....	All.
1881.....	264.....	All.
1881.....	350.....	All.
1881.....	354.....	2.
1881.....	411.....	All.
1881.....	439.....	All.
1881.....	464.....	All.
1881.....	543.....	All.
1881.....	570.....	All.

LAWS OF	Chapter	Section.
1881.....	613.....	All.
1882.....	58.....	All.
1882.....	60.....	All.
1882.....	118.....	All.
1882.....	196.....	All.
1882.....	250.....	All.
1882.....	289.....	All.
1882.....	304.....	All.
1882.....	317.....	All.
1883.....	111.....	All.
1883.....	212.....	All.
1883.....	309.....	4.
1883.....	374.....	All.
1883.....	492.....	All.
1884.....	141.....	All.
1884.....	231.....	1, 2.
1884.....	337.....	All.
1885.....	107.....	All.
1885.....	122.....	All.
1885.....	123.....	1.
1885.....	140.....	All.
1885.....	160.....	All.
1885.....	326.....	All.
1885.....	439.....	All.
1885.....	451.....	All.
1886.....	63.....	All.
1886.....	126.....	All.
1886.....	164.....	All.
1886.....	173.....	All.
1886.....	306.....	All.
1886.....	355.....	All.
1886.....	659.....	4.
1886.....	673.....	All.
1887.....	297.....	All.
1887.....	372.....	All.
1888.....	22.....	All.
1888.....	55.....	All.
1888.....	152.....	All.
1889.....	10.....	All.
1889.....	14.....	All.
1889.....	294.....	All.
1889.....	312.....	All.
1889.....	331.....	All.
1889.....	376.....	All.
1890.....	10.....	All.
1890.....	136.....	All.
1890.....	245.....	All.
1890.....	382.....	1.
1890.....	367.....	All.
1890.....	568.....	131.

LAWS OF	Chapter	Section.
1891.....	277.....	All.
1891.....	289.....	All.
1891.....	355.....	All.

Supplemental Acts of Interest to Counties.

LAWS OF 1890, CHAP. 555.

AN ACT to provide for the improvement and maintenance of the public roads in certain counties as county roads.

SECTION 1. In every county not exceeding two hundred square miles in area, it shall be lawful for the board of supervisors thereof to acquire and assume, for the purpose of improving and maintaining the same, the full and exclusive control of any public road or roads, or part thereof, in such county, so far as may be necessary only for the said purpose of improving and maintaining the roadbed thereof as a road or roads for carriages or other vehicles, but for no other purpose. In order to acquire and assume such control in any county, with power to improve and maintain the same, the said board shall cause a map to be made, or adopt a map already made, on which the principal public roads or highways of the county shall be, or are, laid down, and shall cause the roads or parts of roads of which the said board intends to acquire and assume such control to be plainly indicated thereon and shall file the said map, when so marked and certified by it, in the office of the clerk of the county; whereupon the roads or parts of roads so marked or indicated on said map shall become and be known as "county roads," and shall thereafter be improved, maintained and kept in repair by the board of supervisors of such county in the manner hereafter provided, and it shall be lawful for such board of supervisors, from time to time, to assume control of and establish other roads or parts of roads as county roads, and improve and keep the same in repair, as aforesaid, or to relinquish control of any road or part of any road so acquired, in either of which cases the said map shall be changed accordingly, and the assuming or relinquishing the control of any public road shall be by resolution, in writing, entered upon the minutes of the board, and a copy thereof, certified by the clerk of the board, shall be filed forthwith in the office of the county clerk. If any road, or part thereof, so to be improved or repaired, shall pass through any village, it shall be necessary to obtain the consent of the board of trustees of such village before the board of supervisors shall assume the control, improvement or repair of that portion thereof lying within such village, and such boards of trustees are hereby authorized and empowered to grant or give such consent. The term "road," as used in this act, shall be construed to include street, avenue or other public highways.

§ 2. Upon the establishment, in the manner above provided, of any county road or roads, the board of supervisors of such county shall forthwith cause the said county roads to be improved and put in repair, and shall thereafter maintain and keep the same in repair and in good condition, in the manner hereinafter provided.

§ 3. The said board of supervisors shall by resolutions duly entered upon their minutes from time to time, estimate and determine what sums of money will be required to improve said county roads. They are hereby authorized and directed to borrow such sums of money thus determined upon as needed for such improvement, on the credit of the county, which sums so borrowed, however, shall not exceed, in any year, an amount which, with then outstanding bonded indebtedness of said county, shall be in excess of ten per centum, of the assessed valuation of such county as shown in the assessment-rolls of the preceding year, and the board of supervisors shall prescribe by resolution, the form of obligation to be issued on such loan or loans and the times and the place of payment, the time not to exceed twenty-five years from the date of the obligations, so to be issued and the rate of interest not to exceed the legal rate. The chairman and clerk of the board of supervisors shall indorse on each of such bonds or obligations that is issued by and in accordance with the directions of the board of supervisors and shall sign such certificate in their official capacity. The said board of supervisors shall raise, in their annual tax levy, a sum deemed sufficient to keep and maintain the said county roads in good order and repair, or in default thereof, it shall, in like manner, raise, by the issue and sale of bonds as aforesaid, from time to time such moneys as they shall by resolution determine, and as shall be required for the necessary repairs of such road and to keep them constantly in good order and condition, not, however, exceeding in amount the limit above provided. The board of supervisors shall keep a record showing the dates and amounts of such bonds, the times and place when and where the same are made payable and the rate of interest thereon ; and such board shall have power and it shall be its duty from time to time, as the said obligations are about to become due and payable, to impose upon the taxable property of the county sufficient tax to enable payment to be made, upon the due date thereof, of such obligations, according to the terms and conditions thereof. Said board shall promptly dispose of the bonds issued as aforesaid in public competition, upon due notice to be published in two newspapers published in such county, and in two daily newspapers published in the city of New York, for at least three weeks prior to the sale thereof, for not less than the par value thereof, and shall pay the proceeds thereof to the county treasurer of such

county, and the said treasurer shall immediately deposit the same in some trust company in the state of New York, designated by the supreme court as a legal depository, which deposit shall be entered and designated "the county road fund" of such county, and the same shall not be drawn out or used for any other purpose than the improvement and repair of such county roads so designated by the said board of supervisors, and only on the presentation of an account duly verified, audited by the board of supervisors and accompanied by the certificate of the supervising engineer that the work, materials or services have been done, delivered and rendered in accordance with the contract therefor.

§ 4. The said board of supervisors shall, immediately upon receipt of said county road funds, proceed to improve and repair the said county roads designated as aforesaid in the manner and with the material required by the provisions and regulations of this act, and shall, thereafter, in like manner, keep the said roads constantly in good repair and condition. All such improvements and repairs, except in so far as relates to the services of an engineer, shall be made under and in pursuance of written contracts with the lowest bidder, upon bids called for by notice and advertisement similar to that to be given in the case of the sale of the county bonds hereinbefore referred to and upon terms and specifications, which, with the provisions of the contracts and the security offered by the contractors, shall be approved by the board of supervisors before such contracts shall be finally awarded or executed.

§ 5. All the improvements and repairs made under and in pursuance of this act shall be done under the supervision of a competent civil engineer, holding a diploma as such, to be appointed by the board of supervisors and to be removed by vote of four-fifths of all the members of the board of supervisors. Such engineer shall be consulted in the preparations of the specifications and contracts for such work, shall require such improvements and repairs to be made in conformity with the provisions of this act and of the contracts therefor, shall certify from time to time, to the board of supervisors as to the character and progress of the work being actually done, and do such other professional work as shall be imposed upon him by such board of supervisors, or by the contracts for such improvements or repairs, and shall be paid for his services such reasonable compensation as shall have been previously agreed upon between him and them. The board of supervisors shall cause all county roads to be divided into sections of not more than one mile each to be designated by suitable monuments which shall be numbered, and it shall be the

duty of the supervising engineer to make regular quarterly reports to the board of supervisors in writing (and oftener if required by such board), which shall state the then condition of each section of the road, the amount expended thereon for the last quarter, and the repairs necessary for the ensuing quarter, and the estimated cost thereof, and he shall file a duplicate of such quarterly report in the county clerk's office.

§ 6. The following regulations shall govern all improvements and repairs of such county roads, when the same are made under or in pursuance of the provisions of this act:

1. All such improvements and repairs shall embrace or cover the roadbed or wagonway to the width of at least one rod and to the depth of at least eight inches, unless the board of supervisors, by a four-fifth vote of the entire board, shall decide to reduce its width to fourteen feet or its depth to six inches in specific cases, though material similar to that about to be employed, if already upon such roadbed, may be utilized as a part of the material to be employed in forming such improved or repaired roadbed.

2. No material other than stone, wood, shells or asphalt compound shall be used in making such improvement or repairs, for at least one rod or fourteen feet in width as the case may be and the above required depth of such improved or repaired surface.

3. In case any road to be improved or repaired shall already have a sufficient compact and substantial foundation of stone already laid, such foundation may, in the discretion of such engineer and with the approval of said board of supervisors, be allowed to remain and be utilized as of its actual depth, but no new or fresh material shall be placed thereon until all material previously and in any way superimposed upon such foundation, but of a different character from that about to be newly employed in such improvement or repairs, shall have been thoroughly removed.

4. Whenever any roadbed or wagonway shall be thus improved or repaired with broken stone, there shall be placed in such said roadbed or wagonway, if a sufficient substantial and compact foundation of stone does not already exist, a foundation course or layer of trap rock, granite or other equally hard stone, not less than four inches thick, of stone not less than two and one-half inches in diameter, or of the size commonly known as two and one-half inch stone, and in all cases of improvement with stone other than block-pavement, the uppermost layer or covering shall not be less than two inches thick, and shall consist of granite or trap rock dust known as screenings, and, in

* So in the original.

SUPPLEMENTAL ACTS OF INTEREST TO COUNTIES.

case of repair, not less than one inch in thickness, and the same shall be applied under the pressure of a roller of not less than two tons weight.

5. All roadbeds or wagonways thus repaired shall be shaped or crowned with a sufficient and continuous rise of at least one-half inch to the foot from the sides to the center thereof, and shall be so constantly kept and maintained.

§ 7. No horse railway or electric or other railway shall be laid, constructed or operated on said county roads, unless, in addition to the requirements of existing laws, the same shall be authorized by a two-third vote of the board of supervisors and unless the same shall be constructed with a flat or grooved rail, and in case of horse railways, paved between the tracks in the manner prescribed by the board of supervisors in the resolution authorizing the same and the same constantly maintained in good order and condition by said railroad company, and the railroad or corporation constructing the same shall agree thereto, and it shall be the duty of the said board of supervisors to require from said railroad or corporation, or other person, a bond with sufficient sureties as a guarantee, and conditioned for the performance of their agreement, and the board of supervisors may, from time to time, require such bond to be renewed in case the sureties, or any of them, in its judgment, shall become insufficient.

§ 8. Whenever it shall be necessary to lay water or gas mains, or construct sewers or other public improvements, or to make connections therewith through or upon said county roads, or any part thereof, which shall require the digging up or interference with the same or the roadbeds thereof, in addition to the consent and authority required under existing laws for the same, it shall be necessary to obtain the consent of said supervising engineer thereto. The said road and roadbed shall, in each case, be promptly restored to its former condition, and the same shall be done subject to the approval of the supervising engineer, at the expense of the person, corporation or municipal authority, at whose request such work shall be done, and the amount thereof may be recovered, in default of payment, by the board of supervisors; and, before granting his consent, the said supervising engineer shall require a sufficient deposit to be made by the person or corporation applying for such consent, conditioned that the said road or roadbed shall be so restored.

§ 9. Wherever an expenditure exceeding the rate of ten thousand dollars per mile shall be deemed necessary on such county roads, or any part thereof, all such expenditure in excess of ten thousand dollars per mile shall be borne by the town or towns, village or villages, or separate road districts within whose jurisdiction such roads or

parts of roads so improved or repaired shall be, and in case of such excess, the board of supervisors shall cause such excess to be levied and collected in the next ensuing tax levy authorized by such supervisors upon such towns, or upon the portions thereof embraced in such villages or separate road districts liable therefor.

§ 10. Said board of supervisors shall have the control and jurisdiction over said county roads only for the purpose of improving and keeping the same in repair, except as hereinbefore mentioned, and for all other purposes the said roads shall remain and be subject to the authority, control and jurisdiction of the town, village, separate road district, or local authorities to which they shall respectively belong: provided, however, that all roads or parts of roads designated as county roads shall remain under the control of the local authorities liable for the repair thereof until such improvement shall have been actually begun thereon under this act, and if the said board of supervisors shall at any time relinquish the control of any county road or part thereof the local authorities within whose jurisdiction the same shall be, shall forthwith resume the control and charge thereof in like manner as if the same had not been designated as a county road.

§ 11. All action taken in violation or disregard of the provisions hereof, or any failure to observe the provisions hereof, shall be deemed unlawful, and any officer or person who shall participate in such action shall be guilty of a misdemeanor, and shall, upon conviction, in addition to the punishment provided by law for a misdemeanor, be adjudged to pay to the treasurer of such county a fine of five hundred dollars.

§ 12. The provisions of this act shall not become compulsory in any county containing a city of over one hundred thousand inhabitants, unless the board of supervisors thereof shall, by a vote of four-fifths of all the members of such board, determine that it will be beneficial to such county that this act shall be compulsory therein.

§ 13. Nothing in any general act, or general or special act for the organization of any village or separate road district in any county, or relating thereto, shall be construed to prevent the carrying out of the provisions of this act.

§ 14. This act shall take effect immediately.

LAWS OF 1892, CHAP. 289.

AN ACT to amend chapter four hundred and eighty-two of the laws of eighteen hundred and seventy-five, entitled "An act to confer on

SUPPLEMENTAL ACTS OF INTEREST TO COUNTIES.

boards of supervisors further powers of local legislation and administration, and to regulate the compensation of supervisors."

APPROVED by the Governor April 12, 1892. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Subdivision nine of section one of chapter four hundred and eighty-two of the laws of eighteen hundred and seventy-five, entitled "An act to confer on boards of supervisors further powers of local legislation and administration, and to regulate the compensation of supervisors," as amended by chapter five hundred and fifty-four of the laws of eighteen hundred and eighty-one, is hereby further amended so as to read as follows:

9. To authorize in any county containing an incorporated city of one hundred thousand inhabitants or upward, when any territory within such county and beyond the limits of such city has been mapped out into streets and avenues in pursuance of law; the establishment of a plan for the grades of such streets and avenues; the alteration of such plan of grades, or of any plan thereof which shall have been established by law; the laying out, opening, grading, construction, closing and change of line, or of the width of any or more of such streets and avenues, or any part or parts thereof, and of the court-yards, sidewalks and roadways; to provide for the estimation and award of the damages to be sustained, and for the assessment on property intended to be benefited thereby, and fixing assessment districts therefor, the levying, collection and payment of the amount of such damages, and of all other charges and expenses to be incurred, or which may be necessary in carrying out the provisions of this subdivision; the laying down of new or additional streets and avenues upon the established map or plan thereof, the acceptance by town officers of conveyances of land for public highways, the naming and changing of names of the streets and avenues laid down on said map or plan, and the numbering and renumbering of houses and building lots fronting on said streets and avenues; but such last-named powers in regard to the alteration of said map or plan, the laying down, laying out, opening, grading, construction, closing and change of line of such streets or avenues, or the naming or numbering as aforesaid, or such provisions for defraying the expense thereof, shall only be exercised on the petition of the property owners who own more than one-half of the frontage on any such street or avenue, or on the certificate of the supervisor, justices of the peace, and commissioners of highways of the town, or two-thirds of such officers, that the same is in their judgment proper and necessary for the public interest; or in

case the said streets or avenues in respect to which such action is proposed to be taken, shall lie in two or more towns, on a like certificate of such town officers of each of said towns, or two-thirds of all of them; provided, however, that before proceeding to make any such certificate, the said officers, or such number of them as aforesaid shall give ten days' notice by publication in one of the daily papers of said county and by posting in six public places in such town, or in each of such towns, of the time and place at which they will meet for the purpose of considering the same, at which meeting the public and all persons interested may appear and be heard in relation thereto; and provided that no such street or avenue shall be laid out, opened or constructed upon or across any lands heretofore acquired by the right of eminent domain, and held in fee for depot purposes by any railroad corporation, or upon or across any lands now held by any existing corporation formed for the purpose of improving the breed of horses, without the consent of such corporation. The provisions of this section shall not apply to the town of Flatbush in the county of Kings.

§ 2. This act shall take effect immediately.

LAWS OF 1892, CHAP. 456.

AN ACT to provide for the selection, laying out, construction and maintenance of a public driveway and roadway in any county of this state which contains a city the population of which city is in excess of seven hundred thousand, and the boundaries of which city are not coterminous with those of said county, and also providing that the said driveway and roadway shall be a public work of said county, and also providing the means of payment therefor and of maintenance thereof.

SECTION 1. In any county of this state which contains a city the population of which city is in excess of seven hundred thousand, and the boundaries of which city are not coterminous with the boundaries of said county, the mayor of said city, in his discretion, may appoint five disinterested persons, residents of said county as a commission to select, to determine, and to lay out a public driveway and parkway in said county, with such public places, borders and appurtenances as they shall consider for the public interest for such distances, between such points, of such width, and on such lines as it shall determine, and it shall have power to include in its selection of the plan any riparian rights that may be necessary to the construction or maintenance thereof. Each commissioner shall qualify by taking the constitutional oath of office and shall serve without pay. The

commission may employ such assistants as may be necessary to its work, and may fix their compensations, but the total expenses of such commission shall not exceed five thousand dollars, which said sum, or so much thereof as may be necessary, shall be paid out of the revenue fund of said city, or of any other fund which the chief fiscal officer of that city may designate, upon the vouchers of the commission, approved by the mayor. The commission shall report in writing to the mayor, and its report shall include an estimate of the total cost of any public driveway or parkway and appurtenances which it may recommend; and the report shall be filed in the office of said mayor.

§ 2. The mayor, comptroller or other chief fiscal officer, and the auditor or other chief auditing officer of any such city, and the supervisor-at-large, or in case there be no such officer, then, the president of the board of supervisors and the treasurer of said county are hereby created a commission, which may, in its discretion, proceed to lay out and to construct such public driveway and parkway and appurtenances which may be recommended in said report. The said commission shall have power to acquire by purchase all lands, property, estate and riparian rights, that may be necessary or required in the work of laying out and constructing or maintaining such public driveway and parkway, with the appurtenances, or any part thereof, and in case it cannot acquire the same by purchase, the said commission is authorized to acquire the same by proceedings pursuant to chapter ninety-five of the laws of eighteen hundred and ninety, entitled, "An act to amend the Code of Civil Procedure," known as the condemnation law, and the supreme court may make such order as to the manner of conducting such proceedings, as shall be necessary to render the same valid for the purposes required, and the said commission is also authorized to agree with any owner or owners of any tenements, structures or incumbrances upon the line of such driveway and parkway, for the removal of the same in case it shall be necessary, and to make compensation therefor out of the proceeds of the bonds authorized by this act. The lands and premises taken for such public driveway or parkway and its appurtenances, including any road or highway existing at the time, shall be deemed to have been taken for the purposes of the public use, and are declared to be a public highway whenever constituted a part of such public driveway or roadway, subject, however, to the government hereinafter prescribed.

§ 3. If such work be undertaken as hereinbefore provided, the said commission shall certify to the treasurer of said county, in writing, what sum or sums of money will be required from time to time to lay out and to construct the said public driveway and parkway and its appurtenances, as aforesaid, or any part or parts of it, and thereupon

the proper officers of said county are authorized and directed to issue bonds of the said county from time to time for such amounts as may be necessary. Said bonds shall be issued as other bonds of said county, and shall be known as "public driveway and parkway bonds," of the said county, and shall bear interest at a rate not, however, to exceed four per centum per annum, as the county treasurer of said county shall determine, and said bonds shall be issued in such series and for such periods of time, not however to exceed in all twenty-five years from the date thereof, as the said county treasurer may determine. None of said bonds shall be sold for less than par, and the proceeds of said bonds and all premiums thereon shall be paid into the county treasury to the credit of a fund hereby created, to be known as a "public driveway and parkway fund," and such proceeds shall be paid out of said fund by the county treasurer, from time to time as they may be required for the purposes of this act, upon the vouchers of the commission, composed of the city and county officers aforesaid. All work to be done in the construction of said driveway and parkway shall be under the supervision of the head of the department of parks of any such city, if there be such officer, and if there be no such officer, then under the supervision of said commission of public officials, and shall be done by contract, let to the lowest responsible bidder, after public competition upon advertisement therefor, published for five weeks, and at least twice a week, in such daily newspaper of said city and said county as the said commission may determine, and the said commission shall have power to prescribe the terms and conditions of such competition, and to reject any and all bids thereunder, if it shall deem it to be for the best interests of said county and city.

§ 4. Upon the completion of the work, the government and control of such public driveway and parkway and of the public places, orders and appurtenances connected therewith are vested in the head of the department of parks of said city, if there be such an officer, but if not, then in the presiding officer of the board of supervisors of said county and such officer so vested with such government and control shall have power to make ordinances, rules and regulations therefor; to appoint such police force as he may deem expedient, to prescribe and to define their duties and authority and to fix and to regulate their compensation, to seize and to impound all cattle, sheep, swine, goats, horses, geese or other animals, found running at large on such driveway and parkway, to impose a penalty not exceeding five dollars, with reasonable expenses, upon any animal so seized and to enforce the payment thereof in such manner as he may by ordinance direct; to bring any action in his name as such official, to recover damages for the

breach of any agreement express or implied, relating to or growing out of the management or improvement of said public work, for penalties for the violation of any ordinance, or for injuries to personal or to real property appertaining to said public work. He shall in the month of January in every year, make and render to the board of supervisors of said county, and to the common council of said city, a full report of his proceedings during the preceding year, with a detailed statement of his receipts and expenditures.

§ 5. All persons offending against such ordinances as shall be adopted pursuant to the authority herein conferred shall be guilty of a misdemeanor and shall be punished on conviction before any court of competent jurisdiction in the county of Kings, by fine not exceeding fifty dollars, or, in default of payment, by imprisonment, not exceeding thirty days.

§ 6. It shall not be lawful for any surface or elevated railroad to be constructed upon, along or across, either directly or diagonally, such public driveway or parkway.

§ 7. It shall be the duty of the officer charged with the government and management of said public driveway and parkway, to annually certify to the local board of officers of said city and county, charged with the duty of making annual estimates, or if there be no such board, then to the board of supervisors, a statement in detail of the amounts which in his judgment will be required for the maintenance of said driveway and parkway, for the year commencing the first day of January thereafter, and the said local board or the board of supervisors, as the case may be, shall include in its annual estimate, whatever sum shall in its opinion be necessary for such purpose and the same shall constitute a county charge to be raised in the ensuing tax levy for the purposes aforesaid.

§ 8. The said officer charged with the government and control of said public driveway and parkway shall not be entitled to any compensation for such charge.

§ 9. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 10. This act shall take effect immediately.

LAWS OF 1893, CHAP. 35.

AN ACT to amend section eighteen of title three of chapter five hundred and eighty three of the laws of eighteen hundred and eighty-eight, entitled "An act to revise and combine in a single act all

existing special and local laws affecting public interests in the city of Brooklyn," relating to filling vacancies in the office of supervisor.

APPROVED by the Governor February 11, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section eighteen of title three of chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled "An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn," is hereby amended so as to read as follows:

§ 18. Whenever a vacancy shall occur in the office of supervisor for any of the wards of said city such vacancy shall be filled by the common council. The person appointed to fill such vacancy shall hold his office by virtue of such appointment until the beginning of the political year next succeeding the first annual election after the happening of the vacancy, and if such vacancy shall exist after the commencement of said political year the same shall be filled at the general election next preceding such time.

§ 2. This act shall take effect immediately.

LAWS OF 1893, CHAP. 42.

AN ACT to amend chapter six hundred and ninety-eight of the laws of eighteen hundred and ninety-two, entitled "An act authorizing boards of supervisors to appoint superintendents of the poor to act as keepers of alms-houses, and fixing their compensation."

APPROVED by the Governor February 16, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section two of chapter six hundred and ninety-eight of the laws of eighteen hundred and ninety-two, is hereby amended so that it shall read as follows:

§ 2. The board of supervisors of each county shall determine the compensation the superintendent of the poor shall receive for acting as such during the term for which he shall be elected, which compensation shall not be thereafter increased or diminished during his term of office, except as provided by the first section of this act. This act shall not apply to the county of Steuben.

§ 2. This act shall take effect immediately.

LAWS OF 1893, CHAP. 130.

AN ACT to provide for a uniform term of office for supervisors in towns and cities in the counties of this state containing upward of three hundred thousand and less than six hundred thousand inhabitants.

APPROVED by the Governor March 14, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. In each of the counties of this state containing over three hundred thousand inhabitants and less than six hundred thousand inhabitants as now appears or as may hereafter appear by the latest federal or state enumeration of inhabitants and within which is, or may be, a city divided into wards from which supervisors are elected for a longer term than one year, the term of office of supervisors of the respective towns shall be as long as the term of office of the city supervisors. But the provisions of this act shall not affect the term of any supervisor now in office.

§ 2. This act shall take effect immediately.

LAWS OF 1893, CHAP. 45.

AN ACT relative to the powers of the janitor or keeper of the court-house of the county of Kings.

APPROVED by the Governor February 16, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. At and after the passage of this act the janitor or keeper of the court-house of the county of Kings is empowered to employ and discharge any and all assistants, watchmen or helpers or other persons, whose duty it is to attend to the care, management and cleanliness of the said court-house; but in no case shall the amount of money expended for the services of said assistants, watchmen or helpers or other persons exceed the amount appropriated by the board of supervisors for such services.

§ 2. This act shall take effect immediately.

LAWS OF 1893, CHAP. 46.

AN ACT to amend chapter three hundred and twenty-seven of the laws of eighteen hundred and ninety-two, entitled "An act relative to the chief engineer in and for the county of Kings."

APPROVED by the Governor February 16, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. Section one of chapter three hundred and twenty-seven of the laws of eighteen hundred and ninety-two, entitled "An act relative to the chief engineer in and for the county of Kings," is hereby amended to read as follows:

§ 1. It shall be the duty of the chief engineer of the court-house of Kings county, after the passage of this act, to exercise a general supervision of the different heating apparatus in the county court-house, hall of records, county jail, and the several armories of the national guard located in Kings county and to examine into their condition, the need and character of repairs to be made thereto, from time to time and to prepare all specifications therefor and superintend the execution of any work that may be required to be performed thereunder in addition to the discharge of his duties as engineer of the court-house, and the said chief engineer shall have power to select his assistants and appoint and employ the engineers and firemen for the county court-house, hall of records and county jail and remove and discharge the said assistants, engineers and firemen or transfer them or either of them from or to the said court-house, hall of records or county jail, but in no case shall the amount of money expended for the services of said assistants, engineers and firemen, exceed the amount appropriated by the board of supervisors for such services. The power to appoint said chief engineer of the court-house of Kings county shall be continued in the board of supervisors of such county, and such officer shall hold office during good behavior and shall not be removed except for cause after the preferring of charges upon notice and a trial thereof before said board of supervisors. Such officer shall not receive any less salary than is now paid.

§ 2. Section two of chapter three hundred and fifty-three of the laws of eighteen hundred and seventy-eight is hereby repealed.

§ 3. This act shall take effect immediately.

LAWS OF 1893, CHAP. 52.

AN ACT to make the office of county clerk of Columbia county a salaried office, and regulating the management of said office.

APPROVED by the Governor February 21, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The clerk of the county of Columbia shall receive as compensation for his services an annual salary of three thousand dollars per annum. The salary so fixed shall not be increased or diminished during the term for which such clerk shall have been elected, except that such clerk shall retain for his own use the fees allowed by law for searching and certifying the title to and incumbrances upon real estate, and the fees for clerk's certificates; and the county of Columbia shall in no manner be liable to any person for the error made by such clerk in such searching and certifying the title to and incumbrances upon real estate.

§ 2. It shall be the duty of said clerk to perform all services which he is or shall be required or authorized to perform by virtue or by reason of his holding such office, for the state, for the county, and for individuals, including his duties as clerk of every court of which he is or shall be clerk, also the duties as prescribed by the election law, and no compensation, payment or allowance shall be made to him for his own use for any such service except the salary aforesaid.

§ 3. All the fees, emoluments and perquisites which such clerk shall charge or receive, or which he shall be legally authorized, required or entitled by law to charge or receive, shall belong to the county of Columbia, except as mentioned in section one of this act. It shall be his duty to exact, collect and receive the full amount allowed by law of all such fees, emoluments and perquisites for said county, except that such clerk shall require payment in advance for recording all papers left with him for record, and shall also in each case, require payment for all other services rendered by him or his assistants in his or their official capacity by virtue of any law of this state, or by order of the board of supervisors of said county, or any duty that may hereafter by law devolve upon him.

§ 4. In a proper book or books to be provided at the expense of said county, such clerk shall keep an exact and true account of all official services performed by him or his assistants, and of all money, fees, perquisites and emoluments received or chargeable by him or them pursuant to law; such book or books shall constitute a part of the records of said office, and shall at all times, during office hours, be

open for inspection, without fee or charge therefor, of all persons desiring to examine the same.

§ 5. Such clerk shall make a full and true statement for each calendar month of all moneys received each day by him or by his assistants, for fees, perquisites and emoluments for all services rendered by him or them, in his or their official capacity, and shall transmit and deliver such statement to the county treasurer of said county within ten days from the expiration thereof. Such statement shall specify in the following order, the amounts so received for the calendar month: For recording deeds; for recording mortgages, assignments and assignments of mortgages; for recording other documents and papers; for docketing judgments and canceling dockets; for copies and execution of papers and records; for filing papers and for any other services. And shall also show the total receipts for said month. Every such statement shall have attached thereunto an affidavit by said county clerk, in effect that the same is in all respects a full and true statement of all moneys by him received as herein required.

§ 6. At the time of rendering every such statement, such clerk shall pay over to the county treasurer of the county of Columbia, for the benefit of said county, the whole of the moneys so received by him since making the last preceding monthly statement.

§ 7. Every county clerk elected or appointed in said county before entering upon the duties of said office, execute to the clerk of this state, and file with the county treasurer of the said county a bond for one thousand dollars, and with such sureties as shall be required and prescribed by the board of supervisors of said county; such bond shall be conditional that said county clerk shall well and faithfully discharge all the duties of his office, and shall safely keep and deliver over to the said county treasurer as herein provided, all moneys which shall come into his hands. Said bond shall be approved as to the form and sufficiency of sureties by the board of supervisors. If any such clerk shall neglect for thirty days to execute or file any such bond according to the provision of this act, his office shall thereupon become vacant.

§ 8. There shall be one deputy clerk, and said county clerk may appoint such deputy and as many assistants as may be necessary for the prompt and faithful discharge of the duties of his said office. He shall be responsible for their official acts; and the salaries of said deputy and assistants shall be paid in the same manner as the salaries of other county officers are paid. The salaries of the deputy clerk and assistants shall not exceed in the aggregate twenty hundred dollars

* So in the original.

SUPPLEMENTAL ACTS OF INTEREST TO COUNTIES.

per annum, and the clerk may determine the number of assistants and fix their salary or compensation.

§ 9. Any officer referred to in this act, or any assistant herein named who shall receive to his own use, or neglect to account for any money, fees, perquisites or emoluments by this act declared to belong to and be for the benefit of the county of Columbia, or who shall neglect to render to the said county treasurer an account of all fees received at his office, or to pay over the same as herein required, shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by fine or imprisonment or both, at the discretion of the court before whom such officer may be convicted, and shall be liable to said county in a civil action for all moneys so received and not accounted for.

§ 10. Nothing in this act shall be read or construed so as to make the county of Columbia responsible for the acts of the county clerk thereof.

§ 11. The county clerk may require bonds subject to his approval, from his deputy and assistant, to secure him the faithful performance of their duties.

§ 12. All acts and parts of acts inconsistent herewith are hereby repealed.

§ 13. This act shall take effect immediately.

LAWS OF 1893, CHAP. 92.

AN ACT to establish the compensation of the clerk of the county of Rensselaer for services as clerk of all courts of which he is or shall be clerk.

APPROVED by the Governor March 7, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The clerk of the county of Rensselaer shall receive as compensation for his services as clerk of all courts of which he is or shall be clerk an annual salary of two thousand dollars. Such salary shall not be increased or diminished during the term for which any such clerk shall have been elected.

§ 2. It shall be the duty of said clerk to perform all services which he is or shall be required by law to perform as clerk of such courts, and no compensation, payment or allowance, shall be made to him or to any special deputy clerk for any services rendered at the sessions of said courts by such clerk, or special deputy clerk, except the salary aforesaid, and said salary shall be paid to the said clerk in the same manner as the salaries of other county officers are paid.

§ 3. All acts or parts of acts inconsistent herewith are hereby repealed.

§ 4. This act shall take effect immediately.

LAWS OF 1893, CHAP. 129.

AN ACT relative to the chief engineer having charge of the county buildings in counties of this state having upwards of seven hundred thousand inhabitants.

APPROVED by the Governor March 14, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. In all counties of this state containing upwards of seven hundred thousand inhabitants, it shall be the duty of the chief engineer of the commissioner of charities, or the commissioners of charities and correction, or other officers having charge of the county almshouses, insane asylums or penitentiaries wherever such chief engineer has been appointed under existing law, to exercise a general supervision of the different heating apparatus, engines, boilers and all machinery in the several institutions and buildings under the care of said commissioners of charities, or other officers, by whatever name they may be designated, or which may come under their control, and to examine into the condition of such apparatus and machinery and the need and character of repairs and additions to be made thereto from time to time, to prepare all specifications therefor, and superintend the execution of any work that may be required thereunder, in addition to the discharge of the duties now devolved upon him, and said chief engineer shall hold office during good behavior, and shall not be removed except for cause, after the preferring of charges upon notice and a trial thereof before the said commissioners or other officers. The said chief engineer shall not receive any less salary than is now paid. Nothing in this act shall apply to the city and county of New York.

§ 2. All acts and parts of acts inconsistent herewith are hereby repealed.

§ 3. This act shall take effect immediately.

LAWS OF 1893, CHAP. 148.

AN ACT to legalize and confirm the proceedings of the board of supervisors of the county of Essex at its annual meeting, held in

SUPPLEMENTAL ACTS OF INTEREST TO COUNTIES.

November and December, eighteen hundred and ninety-two, in relation to changing the site of the county buildings.

APPROVED by the Governor March 17, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. All proceedings, votes and resolutions taken and adopted by the board of supervisors of the county of Essex at its annual meeting, held in November and December, eighteen hundred and ninety-two, in relation to changing the site of the county buildings of such county, are hereby legalized, ratified and confirmed so as to be of the same force and effect as if all the persons sitting as members of such board of supervisors, taking part in such proceedings, and voting upon the questions and resolutions relating thereto, had been duly elected and qualified members of such board, during such meeting. But nothing herein shall affect any action or proceeding, or any subject-matter thereof pending in any court prior to January first, eighteen hundred and ninety-three.

§ 2. This act shall take effect immediately.

LAWS OF 1893, CHAP. 243.

AN ACT to amend chapter one hundred and ninety-five of the laws of eighteen hundred and eighty-six, entitled "An act to make the office of county clerk of Monroe county a salaried office, and regulating the management of said office."

Became a law without the approval of the Governor, in accordance with the provisions of article four, section nine of the Constitution, March 30, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section one of chapter one hundred and ninety-five of the laws of eighteen hundred and eighty-six, entitled "An act to make the office of county clerk of Monroe county a salaried office, and regulating the management of said office," is hereby amended so as to read as follows:

§ 1. The clerk of the county of Monroe next elected, and thereafter to be elected, shall receive as compensation for his services an annual salary, to be fixed by the board of supervisors of said county prior to the election of every such clerk. The salary so fixed shall be four thousand dollars per annum, and shall not be increased nor diminished during the term for which any such clerk shall have been elected.

§ 2. This act shall take effect immediately.

LAWS OF 1894, CHAP. 79.

AN ACT to amend the county law relative to authorizing
to borrow money.

BECAME a law March 2, 1894, with the approval of the Governor. 1
three-fifths being present.

*The People of the State of New York, represented in Senate
Assembly, do enact as follows:*

SECTION 1. Section sixty-nine of chapter six hundred and e
six of the laws of eighteen hundred and ninety-two, entitled
act in relation to counties, constituting chapter eighteen o
general laws," is hereby amended so as to read as follows:

§ 69. The board may upon the application of any to
towns liable to taxation for constructing, building or rep
any highway or bridge therein or upon its border, pursuan
majority vote of the electors of such town or towns, at an
town meeting or special town meeting called for that purpo
upon the written request of the commissioners of highway
town board of such town or towns, authorize such town or
to construct, build or repair, such highway or bridge and to b
such sums of money for and on the credit of the town or
as may be necessary for that purpose, and to lay out, widen,
or macadamize such highway, or to purchase for public us
plauk road, turnpike, toll road or toll bridge in such to
towns, and may authorize the company owning the same to s
same or any part thereof or the franchises thereof or to p
debt incurred in good faith by or in behalf of such to
towns for such purpose. If such highway or bridge shall b
ated in two or more towns of the same county, the board
apportion the expenses among such towns in such proport
shall be just.

§ 2. This act shall take effect immediately.

LAWS OF 1894, CHAP. 340.

AN ACT to amend the county law, relating to the compensation of the county judge of Oneida county.

BECAME a law April 20, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Subdivision thirty, of section two hundred and twenty-two of chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-two, entitled "An act in relation to counties, constituting chapter eighteen of the general laws," is hereby amended to read as follows:

30....1 Oneida 1 3,000.00 1 3500.00

§ 2. Chapter two hundred and fifty-six of the laws of eighteen hundred and ninety-two, entitled "An act to establish the compensation of the county judge of the county of Oneida," is hereby repealed.

§ 3. This act shall take effect on the first day of July, eighteen hundred and ninety-four.

LAWS OF 1894, CHAP. 29.

AN ACT to amend chapter thirty-five of the laws of eighteen hundred and seventy-two, entitled "An act to authorize the county treasurer of Kings county to designate one of his assistants to act as deputy in his absence."

BECAME a law February 19, 1894, with the approval of the Governor. Passed by a two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section one of chapter thirty-five of the laws of eighteen hundred and seventy-two is hereby amended so as to read as follows:

§ 1. The county treasurer of Kings county is hereby authorized to appoint one of his assistants to act as a deputy treasurer of said county, to be and to act as deputy treasurer of said county during the pleasure of said treasurer, and to have and possess, in the absence of said treasurer, all the power possessed by him except that of sign-

ing bonds or certificates of indebtedness; the said treasurer shall be responsible for the acts of said deputy; such appointment shall be in writing and filed with the clerk of the county of Kings; after the appointment of such deputy treasurer, and before he enters upon the duties of his office, the treasurer shall execute and file a new bond for the faithful performance of his duties as such treasurer, which new bond shall be in the place and stead of the bond already executed and filed by him; and any default or misfeasance in office of such deputy treasurer shall be deemed to be a breach of the condition of the bond given, or to be given by the said treasurer under the provisions of this act.

§ 2. This act shall take effect immediately.

LAWS OF 1894, CHAP. 109.

AN ACT to repeal the provisions for the election of a separate officer to be surrogate in the county of Niagara and establish the compensation of the county judge of said county when he shall be also surrogate.

BECAME a law March 8, 1894, with the approval of the Governor. Passed by a two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. A separate officer to be surrogate in the county of Niagara shall not hereafter be elected or appointed.

§ 2. Upon the expiration of the term of office of the surrogate in and for the county of Niagara now in office, or upon the occurrence of a vacancy in said office before the expiration of said term, the annual salary of the county judge of said county, who shall also be surrogate of said county, shall be three thousand dollars. A county judge of said county of Niagara, while performing the duties of county judge and surrogate, shall not practice law in any of the courts of this state, except to complete any business which as an attorney and counselor at law he may have pending in any such court at the time he is elected or appointed to such office.

§ 3. All acts and parts of acts inconsistent with this act, so far as they affect said Niagara county, are hereby repealed.

LAWS OF 1894, CHAP. 114.

AN ACT to amend chapter seven hundred and sixty-five of the laws of eighteen hundred and sixty-eight, entitled "An act authorizing the supervisors of the several counties in the second judicial district not including the county of Kings, to appropriate and pay compensation to justices of the supreme court and to stenographers for said court."

BECAME a law March 8, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section three of chapter seven hundred and sixty-five of the laws of eighteen hundred and sixty-eight, entitled "An act authorizing the supervisors of the several counties in the second judicial district not including the county of Kings, to appropriate and pay compensation to justices of the supreme court and to stenographers for said court," is hereby amended so as to read as follows:

§ 3. The salary of such stenographers shall not exceed the sum of twenty-seven hundred and fifty dollars each per annum.

§ 2. Section four of the act aforesaid is hereby amended so as to read as follows:

§ 4. To make up and pay the sum of money specified in the first and third sections of this act, the boards of supervisors of the said counties respectively, shall annually levy and cause to be collected as a county charge, an amount of money which the salaries aforesaid shall proportionately bear to the taxable real and personal property in said counties respectively, according to the last annual assessment-rolls therein, to be apportioned by the comptroller of the state, and the respective treasurers of said counties shall receive and pay over the sum so raised to the comptroller of the state. The said comptroller shall thereupon annually pay to each of the justices of the supreme court now residing in said counties, and to their successors in office, in equal quarterly payments, one-half of the sum specified in the first section of the act hereby amended, and under the direction of said justices shall annually pay, in equal quarterly payments, to the stenographers appointed by them, their salaries as fixed and allowed by said justices.

§ 3. Whenever the terms of office of any justice of the supreme court, residing in said counties and who shall have served as such justice ten years or more, shall be abridged pursuant to section thirteen, article six of the constitution of this state, such part of the annual compensation to which such justice shall be entitled under the aforesaid section, and which shall accrue to him pursuant to the act hereby amended, shall be annually apportioned among said counties by the comptroller of the state, as provided in the fourth section of said act. The boards of supervisors of said counties respectively, shall levy and cause the same to be collected and the respective treasurers of said counties shall receive and pay over the same to the said comptroller, who shall thereupon pay the same to the justice entitled thereto as aforesaid, in equal quarterly payments.

§ 4. This act shall take effect immediately.

LAWS OF 1894, CHAP. 115.

AN ACT for the better protection of lost and strayed animals, and for securing the rights of the owners thereof.

BECAME a law March 8, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Every person who owns or harbors one or more dogs within the corporate limits of any city having a population of over twelve hundred thousand, shall procure a yearly license for each animal, paying the sum of two dollars for each one, as hereinafter provided.

§ 2. Licenses granted under this act shall date from the first day of May in each year, and may be renewed at the expiration of the term by payment of one dollar for each renewal.

§ 3. Each certificate of license or renewal shall state the name and address of the owner of the dog, and also the number of such license or renewal.

§ 4. Every dog so licensed shall at all times have a collar about its neck with a metal tag attached thereto, bearing the number of the license stamped thereon.

§ 5. Dogs not licensed pursuant to the provisions of this act shall be seized, and if not redeemed within forty-eight hours, may be destroyed or otherwise disposed of, as hereinafter provided.

SUPPLEMENTAL ACTS OF INTEREST TO COUNTIES.

§ 6. It is further provided that any cat found within the corporate limits of any such city without a collar about its neck bearing the name and residence of the owner stamped thereon, may be seized and disposed of in like manner, as prescribed above for dogs.

§ 7. Any person claiming a dog or cat seized under the provisions of this act, and proving ownership thereof, shall be entitled to resume possession of the animal on payment of the sum of three dollars.

§ 8. The American Society for the Prevention of Cruelty to Animals is hereby empowered and authorized to carry out the provisions of this act, and the said society is further authorized to issue licenses and renewals, and to collect the fees for such, as is herein prescribed, which fees are to be used by said society towards defraying the cost of carrying out the provisions of this act and maintaining a shelter for lost, strayed or homeless animals.

§ 9. Any person or persons who shall hinder, molest or interfere with any officer or agent of said society while in the performance of any duty enjoined by this act, shall be deemed guilty of a misdemeanor, and upon conviction shall pay a fine of not less than twenty-five dollars nor more than one hundred dollars, or be imprisoned for not less than ten days nor more than thirty days, or be punished by both fine and imprisonment.

§ 10. None of the provisions of this act shall apply to dogs owned by non-residents passing through the city, nor to dogs brought to the city and entered for exhibition at any dog show.

§ 11. The thirtieth subdivision of section eighty-six of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York," and all other acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

§ 12. This act shall take effect immediately.

LAWS OF 1894, CHAP. 144.

AN ACT in relation to the term of office of certain supervisors.

BECAME a law March 19, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The term of office of all supervisors elected on the date of the passage of chapter three hundred and forty-four of the laws of eighteen hundred and ninety-three, in any county of this state in which there is a city containing ninety thousand inhabitants and upwards, according to the last federal census or state enumeration, shall not extend for two years as provided in said act, and they shall not hold office after the election and qualification of their successors, but successors to them in said offices shall be elected in pursuance of the provisions of existing laws at the annual town meetings of their respective towns, and at the annual charter election in the cities of said counties, except Kings county, held in the year eighteen hundred and ninety-four.

§ 2. This act shall take effect immediately.

LAWS OF 1894, CHAP. 160.

AN ACT to make the office of sheriff of Niagara county a salaried office, in part, and to regulate the management of said office.

BECAME a law March 23, 1894, with the approval of the Governor. Passed by a two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. After the expiration of the term of office of the present sheriff of the county of Niagara, the sheriff of that county shall receive as compensation for his services hereinafter enumerated an annual salary, not exceeding two thousand dollars, which shall be fixed by the board of supervisors of said county at least six months prior to the election of every such sheriff, and shall not be increased or diminished during the term for which any such sheriff shall be elected.

§ 2. The salary so fixed by said board of supervisors shall constitute the whole compensation which shall be allowed or paid to or

received by said sheriff for all the official services which may be performed by him as sheriff in his attendance upon any and all courts of record held in the county of Niagara, and for all services performed by him for the United States of America, the state of New York, or the county of Niagara, or chargeable thereto, or which he is or shall be required or authorized by law to perform therefor by virtue of his office as such sheriff; and no compensation, payment or allowance shall be made to him for his own use for any of such services except the salary aforesaid.

§ 3. All the fees, emoluments and perquisites which such sheriff shall charge or receive, or which he shall legally be authorized, required or entitled to charge or receive for conveying prisoners to state institutions, and for all other services for the United States of America, or the state of New York, for which fees are paid, including the moneys he may receive for the board, custody or care of United States prisoners, shall belong to the county of Niagara; and it shall be the duty of said sheriff to exact, collect and receive for said county the full amount allowed by law of all such moneys, fees, emoluments and perquisites.

§ 4. Such sheriff shall keep in his office, in a proper book or books to be provided for that purpose, an exact and true account of all the official services performed by him as sheriff, and of all fees, moneys, perquisites and emoluments received or chargeable by him therefor pursuant to law; such book or books shall show when and for whom every such service shall have been performed, its nature, and the fees chargeable therefor, and at all times, during office hours, shall be open to the inspection of any person.

§ 5. Such sheriff shall transmit to the treasurer of said county each calendar month, within five days from the expiration thereof, a verified statement of all the moneys received by him for fees, perquisites and emoluments for all the services named in section two, rendered by him in his official capacity as aforesaid, since making the last preceding statement; the verification of such statement shall be by the affidavit of said sheriff that said statement is in all respects full and true, as herein required, and shall be positive, and not upon information and belief, and at the same time said sheriff shall pay over to the treasurer of the county of Niagara, for the benefit of said county, the whole amount of the moneys so received by him since making the last preceding report.

§ 6. Every such sheriff, before entering upon the duties of his

office, shall execute to the county of Niagara, and file with the treasurer of said county, an undertaking to said county, in addition to any other required by law, in the sum of five thousand dollars, with sufficient sureties to be approved by the county judge of said county, to the effect that he will faithfully perform the duties imposed upon him, and pay over to said treasurer, as herein provided, the moneys which shall come into his hands as herein provided.

§ 7. The jail of the county shall be kept by the sheriff, as required by law. All furniture, implements, materials, food and supplies of whatever nature, necessary for the custody and maintenance of the prisoners and persons detained within said jail, shall be provided by said sheriff, and his actual and necessary expenses in providing the same shall be a county charge and be paid by said county as follows: The sheriff shall keep a correct and itemized account of such expenses in a book or books provided for that purpose at the expense of said county, each item of such account shall state the date at which it was incurred, to whom paid, the place where paid and for what, or the purpose for which it was paid. The sheriff shall also obtain a voucher for each item incurred by him, as far as practicable, and if any such item exceeds the sum of five dollars it shall be duly verified as to its correctness, and the payment thereof, by the affidavit of the person furnishing the same. At the end of each calendar month, or within five days thereafter, the sheriff shall present to the chairman of the board of supervisors of said county, a written and verified statement in detail of all items of his said expenses for such month; the chairman of the board of supervisors shall forthwith examine said statement, and within five days after having so received the same, attach his certificate thereto, certifying what amount thereof he finds correct. Thereupon said chairman shall return to the sheriff said statement with his said certificate attached thereto. The sheriff shall thereupon present the same to the county treasurer of Niagara, who shall forthwith pay to said sheriff the amount certified by the chairman to be correct. The verification of such statement by the affidavit of the sheriff, that said statement is in all respects full and true, and shall be positive and not on information or belief. In case any portion of said account of said sheriff is not certified by said chairman to be correct, the same may be presented by said sheriff to the board of supervisors of said county for audit, and the amount allowed therefor shall be paid as other county charges.

§ 8. The board of supervisors of said county shall designate the number of employes, and the sheriff shall appoint the jailer, turnkey and the assistants employed at the jail of said county for the care and control of the prisoners detained therein; said sheriff shall be responsible for their official acts, and the compensation of said employes shall be fixed by the board of supervisors and paid by the county, in the same manner as the compensation of other county officers are paid.

§ 9. In addition to the salary specified in section one, the sheriff is authorized and entitled to charge, take and receive the fees now allowed to sheriffs by law in civil causes or proceedings and paid by litigants or individuals as and for his compensation for services and disbursements rendered therein, and his liabilities thereunder, and for the services of the under-sheriff and other employes of his office in such cases and proceedings.

§ 10. The said sheriff shall also be allowed and entitled to receive the necessary and actual disbursements incurred by him in the discharge of the duties designated in section two, or in performing any service for which the county receives, or is entitled to receive, the fees therefor under this act, which said disbursements shall be audited and allowed by the board of supervisors as other claims against the county are audited and allowed.

§ 11. Any officer referred to in this act who shall receive to his own use, or for the use of another, any fee, perquisite or emolument, contrary to the provisions of this act, or shall neglect to account for any such fee, perquisite or emolument by this act declared to belong to the county of Niagara, shall be guilty of a misdemeanor, and be liable to said county in a civil action for all moneys so received, or received for the use of the county and not accounted for and paid over to the treasurer pursuant to the requirements of this act.

§ 12. All acts or parts of acts inconsistent herewith are hereby repealed.

LAWS OF 1894, CHAP. 365.

AN ACT to provide for indexing and reindexing conveyances, mortgages and other instruments relating to lands and liens thereon in the county of Kings.

BECAME a law April 25, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Every instrument affecting real estate or chattels real, situate in the county of Kings, which shall be recorded in the office of the register of said county, on and after the first day of January, eighteen hundred and ninety-five, shall be recorded and indexed pursuant to the provisions of this act.

§ 2. Upon the passage of this act, the register of the county of Kings is hereby authorized and directed to prepare a map of said county, on which shall be shown and delineated all the streets, avenues, roads, boulevards, parkways and water-fronts of said county, and also all blocks or parcels of land bounded by said streets, avenues, roads, boulevards, parkways and water-fronts, subject, however, to the next following section. The word "block," as used in this act, designates a plot or parcel of land such as is commonly so designated, wholly embraced within the continuous lines of streets and water-fronts taken together, where water forms one of the boundaries of a block, and such other parcels of land or lands under water as may be indicated upon said map by block numbers as constituting blocks.

§ 3. The said register of the county of Kings shall also cause said maps to be subdivided into convenient land sections, for the use to which said map is to be put, as by this act provided, and shall cause the division lines of said several sections to be exhibited on said map, and shall cause said sections to be numbered on said map from number one, consecutively, upward for as many sections as shall appear on said map.

§ 4. The said register of the county of Kings shall also cause the blocks or parcels of land shown on said map to be numbered thereon, by block numbers, from number one consecutively upward.

§ 5. For the purpose of notice under this act, each block shall be deemed to extend to the middle line of the streets, avenues, roads and boulevards, then or thereafter laid out on said land map fronting and adjoining such block, and shall also be deemed to extend to the

exterior bulkhead line where water forms one of the boundaries of a block.

§ 6. The said register of the county of Kings shall cause five copies of said map to be made, and shall certify the same under his hand, and shall file one copy of said map in the office of the register of the county of Kings, one in the office of the clerk of said county, one in the office of the collector of taxes in the city of Brooklyn, one in the office of the comptroller of said city, and one in the department of assessment in said city; and upon said map being so certified and filed, it shall be and become a public record, and shall be known and designated as the land map of the county of Kings

§ 7. Such number of any of the aforesaid maps as the board of estimate of the city of Brooklyn and of said county of Kings may direct, not exceeding ten thousand, shall be printed by said register of the county of Kings for sale, at a price fixed by said board of estimate, and the proceeds of such sale shall be paid to the county treasurer of Kings county, to the credit of the general fund for the reduction of taxation.

§ 8. The register of the county of Kings is hereby directed and required, immediately upon the completion and filing of said map in the office to cause to be prepared one or more books for each of said sections for the indexing therein under the proper block numbers and block diagrams of all instruments now required by law to be recorded in the books of conveyances. The said register shall also cause to be prepared one or more books for each of the said sections for the indexing therein under the proper block numbers and block diagrams of all instruments now required by law to be recorded in the books of mortgages. Said indexes, when completed, shall be deposited in the office of said register. They shall be prepared so as to contain the names of the parties to each instrument, the date of recording the same, and the liber and page of the record thereof, and shall be substantially the forms of the schedule hereto annexed, designated, respectively, schedule A and schedule B, which schedules are to be deemed and taken to be a part of this act. Said books shall be entitled block indexes of conveyances and mortgages, respectively, and shall indicate the sections and blocks to which they shall respectively relate, and the said books shall be public records. Whenever there shall be filed with the said register a satisfaction of any mortgage which has been indexed as herein provided, the register shall forthwith enter upon the index of such mortgage, the date of

the filing of the satisfaction of the same, and the liber, and page of the record thereof, in the form shown for such entry, in said schedule B.

§ 9. It shall be the duty of the said register to provide and keep in his office, besides said land map and block indexes, books to be entitled the daily index or tickler of conveyances and the daily index or tickler of mortgages, together with books or record in which shall be recorded at length conveyances and mortgages recorded in his office, each of which shall be indorsed with its proper liber number, as well as with the number of the section to which it shall relate, and which shall contain the record of instruments relating to land in that section.

§ 10. Every instrument presented to said register for record and requiring to be indexed under this act after the date when this act shall go into operation in order to entitle the same to be recorded, shall contain in the body thereof, or shall have indorsed thereon to be recorded therewith, a designation of the number of every block on the said land map in which the land affected by the instrument lies. Every assignment of a mortgage and every agreement respecting a mortgage to entitle the same to be recorded shall contain in the body thereof, or shall have indorsed thereon to be recorded therewith, a designation of the number of every block on the said land map in which the land lies which is affected by the mortgage to which such assignment or agreement relates. And the record of the instrument shall not be effectual by way of notice to bona fide purchasers or incumbrances in respect of any land situated in any block not so designated, except as hereinafter provided in section sixteen of this act.

§ 11. Whenever any instrument affecting or relating to land in said city entitled to be recorded and required to be indexed under the provisions of this act shall be presented to said register for record, he shall forthwith indorse the date, hour and minute of its receipt by him, and enter in the proper index or tickler the names of every party executing the said instrument, the date of the record thereof and the number of every block designated as aforesaid for the indexing of such instrument, and within ninety days thereafter shall cause the said instrument to be indexed in the proper book or books of block indexes under the block number and diagram of every block so designated.

§ 12. In the certificate of said register now required to be indorsed on instruments recorded by him he shall certify, in addition to the

other matters required by law to be stated therein, the number of every block on said land map under which the instrument has been indexed.

§ 13. The entries made in said indexes, in conformity with the requirements of this act, shall for the purpose of notice, be deemed and taken to be a part of the record of the instruments to which such entries respectively refer, and shall be notice to such subsequent purchasers or incumbrances to the same extent and with like effect as the recording of such instruments in the office of said register now is or may be notice.

§ 14. Said register, on and after the first day of January, eighteen hundred and ninety-five, shall keep in his office for each section, alphabetical indexes containing lists of the names of all grantors and grantees of land entered from time to time on the block index of conveyances in such section in his office, referring after the names of said grantors and grantees to the liber and page of the record of the several instruments to which they are parties, and to every block affected by said instruments. Said register shall keep in his office similar alphabetical indexes of mortgagors and mortgagees whose names appear upon the block indexes of mortgages. Said register shall prepare the books for such alphabetical indexes, and in lexicographical or such other form as he may think proper, but said last-named indexes shall not be deemed or held to be a part of the record of the instruments to which they refer, for the purpose of notice or otherwise, nor shall be deemed to constitute notice of said instruments or of the contents thereof. The indexes provided for in this section shall be in lieu of the general indexes, now required by law, to be kept in the office of said register. But the indexes now in said office shall be retained so that access may be had to the same at any time, and the register shall cause all conveyances and mortgages now recorded in his office to be lexicographically indexed where not already done, in the same manner and form as conveyances and mortgages are now lexicographically indexed in his office, and the auditor of said county shall audit monthly and the treasurer of said county shall thereupon pay to said register his charges for said work at the rate now paid for like work in said office, but no more.

§ 15. Whenever, after the making of said land map, any new or additional blocks of land shall be formed in said county by the opening or closing of any street, avenue, road, boulevard or park-way, or otherwise, it shall be the duty of the said register of the

county of Kings to cause new maps of such new or additional blocks to be made, and such new or additional blocks to be numbered on said map, with block numbers following in consecutive order the highest block number on the maps or block indexes immediately previous thereto or by some other proper designation and to certify such new maps and file them in the same offices as the previous land maps. On and after the first day of January next succeeding the making and filing of any such new maps, the indexes of all blocks theretofore existing comprising the land in the new blocks so formed as aforesaid, shall, except for the purpose of completing the indexing belonging to the preceding year, be closed and discontinued, and a new index shall be opened for every such new block in the form herein prescribed, which new index shall thenceforth be used for all entries relating to land in such block. The date of closing shall be entered on the map previously in use and at the end of every index on the block indexes so discontinued with references to the number of every new block to be used in place thereof, and the date of opening shall be entered on the new map so made and filed, and at the beginning of every such index with references to the number of every block before in use for the land contained in such new block; and on and after the said first day of January, said maps, so filed as aforesaid, shall constitute a part of the land map of said county, and become public records, and the recording and indexing of instruments relating to land shown thereon shall be subject to the provisions of this act, as to the manner of indexing as hereinbefore provided, and the legal effect of such recording and indexing. The numbers and boundaries of blocks and sections shall not be changed except as is in this section provided.

§ 16. In cases where any instrument shall have been recorded without such designation as is required by section ten of this act, or with an erroneous designation, the said register shall, on presentation of proper proof thereof, enter such instrument in the proper index under the proper block number of every block, the designation of which shall have been erroneously stated or omitted, and shall, at the same time, make a note of such entry and of the date thereof in every place in which such instrument may have been erroneously indexed, opposite the entry thereof, and also upon the record of the instrument and upon the instrument itself, if the same be in his possession or produced to him for the purpose, and the record of such instrument shall be constructive notice as to property in any

SUPPLEMENTAL ACTS OF INTEREST TO COUNTIES.

block not duly designated at the time of such record only from the time when the same shall be properly indexed.

§ 17. No entry in any book or index in said register's office shall be erased so as to be illegible, but in case of any correction the same shall be made without destroying the original by drawing a line through such original entry, and in all such cases the date of such correction, attested by the signature of the register or his deputy, shall be entered upon the same page on which such correction is made, on the margin, opposite such correction.

§ 18. Any person presenting to said register an instrument for record under this act shall pay to said register, in addition to the fees now required by law for recording like instruments, the further sum of twenty-five cents for each additional block beyond one under which such instrument is required to be indexed, and the sum of one dollar for each block shall be payable whenever an instrument already recorded is required to be reindexed under section sixteen of this act.

§ 19. The provisions of this act shall not apply to the indexing of the general assignments, wills, powers of attorney, executory contracts for the sale or purchase of land or satisfaction of mortgages, except as in the next section provided; but such instruments shall be filed or recorded as now required by law, and when recorded they shall be indexed in separate alphabetical indexes.

§ 20. The said board of estimate is hereby authorized and directed, from time to time, to determine the amounts of money not herein otherwise provided for, which may be required to carry out the provisions of this act, until the first day of January, eighteen hundred and ninety-six, and to appropriate said moneys therefor, and the county treasurer of Kings county is authorized to raise such money from time to time, by the issue of bonds of said county, as hereinafter provided.

Am'd by chap. 71 of 1895. Took effect March 4, 1895.

§ 21. No expenditure shall be made or obligation incurred under any provision of this act, unless otherwise herein specifically authorized and provided for, until an appropriation therefor, shall have been made by the said board of estimate, nor in excess of any such appropriation.

§ 22. The register of the county of Kings, immediately after the passage of this act, shall cause to be prepared two separate sets of index books, to be known, respectively, as the block index of reindexed mortgages, which books shall be substantially the same in form

as the block indexes of conveyances and mortgages hereinabove provided for. Such books so to be prepared shall be properly ruled and indorsed, and so as to indicate the section and blocks on the land map of the county of Kings, to which they respectively relate, and also the periods of time covered by them respectively.

§ 23. Upon the completion of the said index books, so directed to be prepared, the said register shall cause to * reindexed therein, subject to his direction, under the sections, blocks and block numbers shown on the land map of said county, and, so far as practicable, on the same general plan as entries are hereinbefore required to be made in the block indexes in the office of said register, all conveyances, mortgages and other instruments which were recorded or filed in the office of said register, prior to the first day of January, eighteen hundred and ninety-five, except executory, for the sale of land, mortgages satisfied of record, satisfaction of mortgages, releases from mortgages which have been satisfied, and leases which, by their terms, have expired.

§ 24. The clerk of the county of Kings shall cause to be prepared, suitable books for the reindexing therein of all statutory notices of liens and claims upon land which shall have been filed or recorded in the office of the said county clerk for such period prior to the passage of this act, as said county clerk shall determine, and said county clerk shall thereupon cause all such liens to be reindexed in such books accordingly. The said county clerk shall, when possible, reindex said instruments and liens in this section mentioned upon the plan of block indexing herein provided for, and under the respective sections, and blocks on the said land in which the land lies affected by such liens and instruments. The index books, by this section directed to be prepared, shall be suitably indorsed and designated as block indexes of reindexed liens, the indorsements specifying the kind of liens reindexed in each index book.

§ 25. Notice of lis pendens shall be reindexed only against the name of the first plaintiff, and the name of the first defendant mentioned in the notice, and in case of an action for the foreclosure of a mortgage, it shall appear by an index of such mortgage, or on the margin of * thereof, that such mortgage has been satisfied and discharged of record, or such action has been discontinued without judgment, then in any such case the notice of the pendency of such action, which may have been filed, shall not be reindexed, under the

provisions of this act, and no lien shall be reindexed which appears to have been satisfied and discharged by an entry to that effect on the margin of the present index, or of the record of the instrument, or by other record evidence brought to the notice of said county clerk or register. In cases in which mortgages have been foreclosed, and decrees of foreclosure have been entered, said register may, in his discretion, enter on the margin of the record of the mortgage foreclosed the fact of such foreclosure and the date of the decree.

§ 26. If, in the opinion of such register or county clerk, it shall, in particular cases, be impracticable by reason of the uncertainty of descriptions or otherwise, or it shall appear to either of them, for any reason, not advisable to index or reindex some of the instruments and notice of liens by this act directed to be reindexed upon the plan hereinbefore mentioned with reference thereto, said register or county clerk may, in his discretion, in such cases, as to such instruments and notices, adopt and carry out another plan of indexing or reindexing which he shall think best, in order to simplify reference to such instruments and notices and their use as public records.

§ 27. Should the said register or county clerk think it expedient so to do, he may cause to be prepared nominal index in lexicographical form of the parties to the instruments mentioned in this act, or to any of them, and of the owners of land against which liens have been filed and of judgment debtors whose names appear on record. The particular form of such lexicographical indexes shall be such as said register or county clerk shall determine, and shall cover such periods and be brought down to such dates as he shall direct in respect to his own office.

§ 28. Upon the completion of the indexing and reindexing directed by this act as to any instruments or liens hereinbefore mentioned, and when such indexes shall be certified by said register or county clerk as having been prepared by him under the authority of this act, the same shall be deposited in the office of the register and county clerk, respectively, or such other place as shall be provided for them, for public use, and the same shall thereupon be public records.

§ 29. The said county clerk is also hereby directed to cause to be prepared, under his direction, suitable index books for the future indexing therein upon said block plan of indexing of all statutory notices of liens or claims on land which may be filed or recorded in his office, on and after the first day of January, eighteen hundred and ninety-five. Such index books shall be known and designated

as the block index of liens, and shall be ruled for entering therein the names of the lienor and of the owner of the property affected, the amount claimed to be due as shown by the notices, and the date of the satisfaction thereof, and said indexes shall be of such other general form as said and each of said books indexed on the block plan, shall contain entries relating only to the section of which the number and designation is indorsed in said book, and said indexes shall be of such other general form as said county clerk may determine. In cases in which it is not practicable, in the opinion of said county clerk, to index some of the liens in this section mentioned, under said blocks, then the said county clerk may prepare such other form of indexes as he shall think best. All such books shall be indorsed with their proper designation, and so as to show the liens to be indexed therein, the sections and blocks on the land map of the said county to which they relate, and the periods of time covered by them, respectively.

§ 30. For the purpose of carrying out all the various provisions of this act the register and county clerk may employ an expert who shall act as superintendent, and such clerks and assistants and other expert persons as may in their respective judgment be required in their own offices, provided, however, that all of the expenses, including printing, stationery and material as may be necessary for the purposes of this act, and for carrying out all of the provisions of this act, shall not in any event exceed the amount or amounts authorized by the said board of estimate or otherwise specifically provided for by this act, or other existing law.

§ 31. The board of estimate of the city of Brooklyn and county of Kings is hereby authorized to include in the final estimate of the moneys to be raised by taxation in said county for the year eighteen hundred and ninety-five, and the succeeding years if required, until said block index or reindexed liens and compilations are completed, the amounts of money which may be required by said register and county clerk to carry out the provisions of this act in respect thereto and not otherwise provided and to appropriate said moneys therefor, and the county treasurer of said county is authorized and directed to pay, out of the amounts so required and appropriated, the expenses authorized by this act, upon the requisition of the said register and county clerk for the amounts required by each in his own office, and said county treasurer is authorized to raise whatever money may be required not otherwise provided for from time to time by the issue

SUPPLEMENTAL ACTS OF INTEREST TO COUNTIES.

of county bonds in such amounts in such series and payable at such times as the county treasurer may determine bearing interest at a rate not to exceed four per cent and not to be sold at less than par, provided that the total amount of such bonds shall not exceed the amount actually appropriated or required to carry out the provisions of this act.

§ 32. This act shall be deemed and taken to be a public and not a private act.

§ 33. All acts and parts of acts, so far as the same are inconsistent with the present act, are hereby repealed.

§ 34. This act shall take effect immediately.

SCHEDULE "A."

FORM OF BLOCK INDEX OF CONVEYANCES.

	NAME OF STREET.	
SECTION 1. BLOCK 110.	NAME OF STREET. 110. NAME OF STREET.	NAME OF STREET.
	NAME OF STREET.	

SUPPLEMENTAL ACTS OF INTEREST TO COUNTIES.

GRANTORS.	GRANTEES.	Date of recording.	CONVEYANCES.		Re
			Liber.	Page.	
John Doe	Richard Roe.....				
Richard Roe.....	William Black...				
James White.....	Robert Moore....				
William Black....	John Young.....				
Robert Moore.....	Francis Hart.....				
Francis Hart	Thomas Scott....				
Henry Brown....	Ira Smith.....				
Ira Smith.....	Lewis Green.....				

SCHEDULE "B."

FORM OF BLOCK INDEX OF MORTGAGES.

	NAME OF STREET.	
SECTION 1. BLOCK 110.	NAME OF STREET. 110.	NAME OF STREET.
	NAME OF STREET.	

SUPPLEMENTAL ACTS OF INTEREST TO COUNTIES.

MORTGAGORS.	MORTGAGEES.	When recorded.	MORTGAGE.		When discharged.	SATISFACTION.		Remarks.
			Liber.	Page.		Liber.	Page.	
Richard Roe.....	James Dunn....							
Robert Moore.....	Emil Smith.....							
William Black....	Amos Wright...							
Francis Hart.....	Samuel Jones...							
Ira Smith.....	Charles Clute...							
Ira Smith... ..	Henry Burke ...							
Thomas Scott	John Flint							

LAWS OF 1894, CHAP. 422.

AN ACT to make the office of the county clerk of Niagara county a salaried office and regulating the management of said office.

BECAME a law May 8, 1894, with the approval of the Governor. Passed by a two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. After the expiration of the term of office of the present clerk of the county of Niagara, the clerk of the county of Niagara shall receive as compensation for all his services an annual salary, not exceeding two thousand dollars per annum, which shall be fixed by the board of supervisors of said county at least six months prior to the election of every such county clerk, and shall not be increased or diminished during the term for which such clerk shall be elected.

§ 2. It shall be the duty of said clerk to perform all the services which he is or shall be required or authorized to perform by law, but no compensation, payment or allowance shall be made to or received by him for his own use for any such service, except the salary aforesaid.

§ 3. All the fees, emoluments and perquisites which such clerk is or shall be legally authorized, required or entitled by law to charge

or receive, shall be charged and received by him, but for the benefit of and shall belong to the county of Niagara, and it shall be his duty to exact, collect and receive payment in advance for recording all papers left with him for record and to require payment for all other services rendered by him or his assistants in his or their official capacity, except those chargeable to the county. The board of supervisors of said county may by resolution, at the annual session of said board, fix the amount of the fee which said clerk shall exact and collect for searching and certifying the title to and incumbrances on real property not exceeding the amount now fixed by law. Said resolution shall be general in character and said fee shall be uniform throughout the county and shall not be changed except at a regular annual session of said board.

§ 4. Such clerk shall keep in a proper book or books, an exact and true account of all official services performed by him or his assistants and of all money, fees, perquisites and emoluments received or chargeable by him or them, pursuant to law; which book or books shall constitute a part of the records of said office, and at all times during office hours shall be open for inspection to all persons desiring to examine the same, and without fee or charge.

§ 5. At the end of each calendar month such clerk shall make a full verified statement of all moneys received each day during that month by him or by his assistants, for fees, perquisites and emoluments for all services rendered by him or them, and shall transmit or deliver the same to the county treasurer of said county, within ten days thereafter, together with the whole of the moneys so received by him or his assistants. Such statement shall specify in the following order, the amount so received during that calendar month: For recording deeds, for recording mortgages, assignments and satisfaction of mortgages; for recording other documents and papers; for searching and certifying the title to and incumbrances upon real estate; for docketing judgments and canceling dockets; for copies and exemplifications of papers and records; for filing papers and for any and all other services. And shall also show the total receipts for said month. The verification of such statement shall be by the affidavit of said county clerk, that the same is in all respects a full and true statement of all moneys received by him or his assistants as herein required.

§ 6. All the expenses of lighting and heating the county clerk's office of said county, for stationery and books properly used therein,

SUPPLEMENTAL ACTS OF INTEREST TO COUNTIES.

and all other expenses of maintaining said office, shall be a county charge and be paid for by said county.

§ 7. Every county clerk, elected or appointed in said county, before entering upon the duties of said office, shall execute and file with the county treasurer of said county, an undertaking to said county in such sum, and with such sureties as shall be approved by the board of supervisors of said county, if in session, and if not, then by the county judge of said county, to the effect that said county clerk shall faithfully execute the duties of his office, and shall pay over according to law, and account for, all moneys and property which shall come to his hands, and render a just and true account to the county treasurer of said county and to the board of supervisors when required, and obey all orders and directions of a competent court relating thereto; and if any such clerk shall neglect for thirty days to execute or file such undertaking according to the provisions of this act, his office shall become vacant.

§ 8. There shall be one deputy clerk, and as many assistants, including one special deputy clerk to attend the sessions of the courts of record, held in and for said county, as may be required for the prompt and efficient discharge of the duties of said office, all of whom shall be appointed by the county clerk, and for their official acts said county clerk shall be responsible; the compensation of said clerk, deputy and assistants shall be paid in the same manner as that of other county officers. The compensation of the deputy clerk shall not exceed twelve hundred dollars per annum, and that of said assistants, including said special deputy, shall not exceed in the aggregate fifteen hundred dollars per annum; the clerk may determine the number of assistants and fix their salary or compensation.

§ 9. Any officer or assistant named in this act who shall receive to his own use, or neglect to account for, any money, fees, perquisites or emoluments by this act declared to belong to and be for the benefit of said county of Niagara, or who shall neglect to render an account of all fees received, or to pay over the same as required, shall be guilty of a misdemeanor, and on conviction thereof be punished by fine or imprisonment, or both, at the discretion of the court in which his conviction may be had, and in addition be liable to said county in a civil action for all money so received and not accounted for.

§ 10. Nothing in this act contained shall make the county of Niagara responsible for the acts of the county clerk thereof, nor relieve the county clerk from any liability to which he is lawfully subject preceding the taking effect of this act.

§ 11. The county clerk may require undertakings from his deputy and assistants, with sureties to be approved by him, for the faithful performance of their duties.

§ 12. All acts and parts of acts inconsistent herewith are hereby repealed.

LAWS OF 1894, CHAP. 557.

AN ACT to provide for a commission of jurors in counties containing cities of from ninety to ninety-six thousand inhabitants.

BECAME a law May 8, 1894, with the approval of the Governor three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. In every county except the county of Onondaga containing a city of not less than ninety or more than ninety thousand inhabitants, as now appears, or as may hereafter appear by the latest federal enumeration of inhabitants, the grand jurors for such county and the petit jurors for each city and village therein shall be selected by a person to be designated by the county judge, surrogate and county clerk of each such county and who shall be known as the commissioner of grand jurors. The county judge, surrogate and county clerk of each such county shall, during the month of August of the year eighteen hundred and ninety-four, and during said month in every alternate year thereafter, designate by a written appointment duly signed and acknowledged by them, some competent freeholder of such county as said commissioner. The appointment shall be filed with the clerk of the county to which it applies. In case of the death, disability, resignation or removal of such commissioner, the vacancy so caused shall be immediately filled for the balance of the term of the commissioner so resigning or removed, in the manner above provided.

§ 2. Said commissioner may be removed from office by a decision of the supreme court, sitting at a special term at which motions may be heard in the judicial department of which county for which such commissioner was appointed, for cause in part. The application for such removal may be made by the petition of any five or more taxpayers of said county or by the county judge, surrogate and county clerk thereof. Notice

application must be served upon the commissioner either personally or by leaving the same at his place of residence, at least eight days prior to the making thereof.

§ 3. Immediately after his appointment, such commissioner shall take the usual oath of office before a justice of the supreme court, and said oath shall be filed by him with the clerk of the county for which he is appointed.

§ 4. The said commissioner shall, on or before the fifteenth day of November in each year, complete a list of names of the persons who shall constitute the grand jurors for the county for which he is appointed for the ensuing year. Said list shall not contain less than four hundred names of persons, each and every one of whom must be qualified under the general statutes of this state to act as a grand juror. Said commissioners shall also on or before the fifteenth day of November in each year complete a list of names of the persons who shall constitute the petit jurors from each city and village in each such county for the ensuing year. Said commissioner may use the county clerk's office of the county for which he is appointed, to transact the necessary duties of his office, and shall be supplied, on written requisition, by the said county clerk, with all necessary books and supplies, the cost of which shall be a county charge and paid as other claims lawfully incurred by the said county clerk.

§ 5. The said commissioner shall, on or before the fifteenth day of November, in each year, file such list of names of grand jurors and such list of petit jurors for the ensuing year with the county clerk of the county for which he is appointed. Said lists shall each be alphabetically arranged and entered in a separate book by said commissioner, and shall give, in addition to the name, the residence and occupation of each person. Such books shall be open to public inspection, during the month of December, in each year, the said commissioner of jurors shall at such time and place as shall be designated in each city and village by said commissioner, receive evidence of exemptions in the same manner as is authorized in courts of record, and shall thereafter mark "exempt" on said list the names of those persons found to be exempt from serving as jurors, and also record

thereon the ground of such exemption, and he may revise said list by striking therefrom the names of any persons thereon whom it shall appear to him are, for any reason, not qualified to act as grand jurors or petit jurors. Any person who shall not claim and prove his exemption at such time shall be deemed to have waived the same, and may not thereafter claim it. Said commissioner shall give notice of such hearing for the proof of exemptions by mailing notice thereof, not more than ten nor less than three days prior thereof, to each person whose names appears on said list to appear at a time and place designated in said notice. In case in correcting his list of grand jurors as hereinbefore provided, the said commissioner shall reduce the total number of names thereon to less than three hundred, he may add thereto before refilling the said list, as hereafter provided, enough names of persons qualified to act as grand jurors, to make the total number of names on said list three hundred.

§ 6. On or before the fifteenth day of December in each year, said commissioner shall refile the same lists, corrected as hereinbefore provided, with the county clerk, and such corrected lists, so filed, shall constitute the list of grand jurors for the year beginning on the first day of January then following.

§ 7. The commissioner of jurors in each county shall receive the sum of eight hundred dollars as compensation for his services, which shall be paid by the county treasurer of each such county and duly raised by tax by the board of supervisors thereof.

§ 8. This act shall not be deemed to repeal or supersede any general act of this state relating to grand jurors except so far, and so far only, as it may be inconsistent with such general acts.

§ 9. This act shall take effect immediately.

LAWS OF 1894, CHAP. 563.

AN ACT to compensate the board of supervisors of Westchester county.

BECAME a law May 9, 1894, with the approval of the Governor. Passed, three fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. For the services of supervisors in the county of Westchester, each supervisor shall receive from the county compensation at the rate of four dollars per day for each calendar day's actual attendance at the sessions of the board, and mileage at the rate of eight cents per mile for going and returning once in each week during the sessions of the board, from his residence to the place where the sessions of the board shall be held, by the most usual route, for each regular and special session. Each supervisor shall also receive from the county at the rate of four dollars per day for each calendar day's service actually performed in the discharge of any duty which may be lawfully committed to him by the board, and his actual expenses incurred while in the discharge of such duty. The board of supervisors may also allow to each member of the board for his services in making a copy of the assessment-roll three cents for each written line for the first one hundred lines, two cents per line for the second hundred written lines, and one cent per line for all written lines in excess of two hundred, and one cent for each line of the tax-roll actually extended by him.

§ 2. This act shall take effect immediately.

LAWS OF 1894, CHAP. 685.

AN ACT to empower boards of supervisors to direct the payment and report, by justices of the peace, to their respective towns, of fines and penalties received by them.

BECAME a law May 12, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Boards of supervisors shall have power to direct the payment, by justices of the peace, of all fines and penalties imposed

SUPPLEMENTAL ACTS OF INTEREST TO COUNTIES.

and received by them, to the supervisors of their respective towns, on the first Monday in each month, and to direct justices of the peace to make a verified report of all fines and penalties collected by them to the board of town auditors of their respective towns on Tuesday preceding the annual town meeting. Upon payment to the supervisor of any town as prescribed by this act, such supervisor shall immediately pay over such part of such fines and penalties to any person or corporation entitled to receive such amount by virtue of any statute, special or otherwise. The residue of such amount shall be applied to the support of the poor of such town. This act shall not apply to the county of New York or Kings.

§ 2. This act shall take effect immediately.

LAWS OF 1894, CHAP. 687.

AN ACT to regulate the commitment and discharge of certain prisoners, tramps and vagrants in Westchester county, and to prescribe the effect thereof, to provide for the support of the prisoners in the jail in the county of Westchester, and to fix the duties and compensation of the sheriff of said county and of certain employes in the jail in said county.

BECAME a law May 12, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The sheriff of Westchester county shall receive his fee and perquisites in all civil cases in which the same are to be paid by private persons, and, in addition thereto, he shall receive an annual salary not to exceed the sum of ten thousand dollars to be fixed by the board of supervisors, to be paid quarterly, by the treasurer of Westchester county, in full of all fees or other compensation from the county of Westchester; and he shall not receive from the county of Westchester any fees, compensation or perquisites of any kind or nature whatsoever, excepting only his aforesaid salary, from which he shall pay all such assistants other than those whose salaries are herein specifically provided for, as shall be proper to enable him to conveniently exercise the duties of his office, and in consideration of which he shall do and perform all duties now or which may hereafter be imposed upon him by law, and including the serving of

subpoenas issued by the district attorney, and all other services which have heretofore been performed by the sheriff of said county, or his deputies, which are a county charge without fee or reward from the county of Westchester, although the statute or law imposing such duty may provide that a fee or other compensation be paid therefor, but he shall be entitled to his actual disbursements for travel, lodging and food incurred while attending to the transportation of juvenile delinquents, and any other person whom he is required by law to transport, where the cost of such transportation is made by law a county charge. The bill for aforesaid disbursements shall be presented to and audited by the board of supervisors of Westchester county at their annual session. The sheriff shall receive from the county treasurer and be allowed for a clerk, one thousand two hundred dollars a year, and for a jailor, to be employed in the jail in the county of Westchester, the sum of twelve hundred dollars a year, each to be paid in monthly payments. The said jailor, in addition to his other duties, to be prescribed by the sheriff, shall keep, under the supervision and direction of said sheriff, the "jailor's docket" of prisoners hereinafter mentioned. The sheriff shall also receive from the county treasurer and be allowed for a day watchman at the jail, the sum of six hundred dollars a year, and for a night watchman at the jail, the sum of six hundred dollars a year, and for a cook and other servants, together, the sum of five hundred dollars a year, which sums shall be paid in monthly installments.

§ 2. It shall be the duty of the sheriff to cause to be kept at the jail a book to be indorsed and known as the "jailor's docket," which book shall be numbered consecutively and shall be suitably lined and arranged in columns, as follows: At the top of the first column shall be the word "no," at the top of the second column the word "name," at the top of the third column the words "date of commitment," under which shall be left a space for the insertion of the year, and thereunder such column shall be divided into one space for the month and another for the day of the month at which the prisoner shall be received at the jail. Over the fourth column shall be the words "offense charged," over the fifth the words "authority committing," over the sixth the words "date of discharge," over the seventh column the words "by what authority discharged," over the eighth column the words "where sent," over the ninth column the words "term of confinement in the jail," under which shall be the words "days and hours," over respectively two divisions of said

ninth column, over the tenth column the word "remarks." It shall be the duty of the sheriff to cause to be written in said book in clear, intelligible hand, in the first column consecutive numbers beginning with number one — one for each person committed to the jail, in the second column the name of the person committed, in the third column, in the respective subdivisions thereof, the month and day of the month when such person is received at the jail, and at the top of said column the year, in the fourth column the nature of the offense with which he is charged, in the fifth column the nature of the court or magistrate committing him, in the sixth column, in like manner as in the third, the year, month and day of his discharge or removal from the jail, in the seventh column the name of the court or magistrate by whose sentence or authority the prisoner is removed from the jail, in the eighth column the name of the place or institution, if any, to which the prisoner is sentenced or committed, in the ninth column the number of days during which such prisoner shall have been confined in the jail. The sheriff is authorized to have a blotter or entry book in which the aforesaid matters may be first and forthwith entered, and thereafter and at all times within one week after such entries shall be made in the blotter the same shall be more carefully transcribed into the aforesaid book, known as the "jailor's docket."

§ 3. All entries relating to any person while he shall be in custody for any one offense or on a charge thereof or committed for examination in respect thereto, or as a witness, shall be made at one place, and together in the jailor's docket, and under or following one entry of his name therein; and the sheriff shall in addition to any criminal prosecution be liable in the sum of one hundred dollars for every case in which an entry is made in said jailor's docket in violation of this or the preceding section, whether the entry be made by him or not, which sum may be collected by suit for the benefit of the county treasurer, in his name of office or by any taxpayer of the county for its benefit.

§ 4. The sheriff shall file and preserve in the sheriff's office all commitments of prisoners thereto and all discharges of prisoners therefrom. Whenever any prisoner shall be sentenced by any magistrate or by any court, it shall be the duty of such magistrate or the clerk of the court, if there be one, to forthwith deliver to the sheriff two duplicate commitments, one of which the sheriff shall deliver with the prisoner to the officer or institution to which the prisoner

is thereby committed, and the other of which, with a proper receipt for such prisoner indorsed thereon or attached thereto, shall be filed and preserved by the sheriff in the sheriff's office. Whenever a prisoner shall be discharged or set free by any magistrate or court, it shall be the duty of such magistrate or court, or clerk of the court, if there be one, forthwith to deliver to the sheriff a certificate, stating that such prisoner was discharged and set free, and giving the date and hour of such discharge, which certificate shall be filed by the sheriff and preserved in the sheriff's office. The aforesaid commitments, discharges and certificates shall be, by the sheriff or jailor, properly indorsed with the name of the person, the date and the character of the instrument, and shall be numbered to correspond with the number of such person in the jailor's docket, be arranged in order and carefully preserved, and constitute public records; and any officer, magistrate or clerk, neglecting to deliver the same to the sheriff or jailor, or at the jail, for more than forty-eight hours after such commitment or discharge shall be liable to a fine for each such neglect of ten dollars, to be collected by the sheriff for his own use or by the county treasurer or any taxpayer of the county for the county of Westchester, and it shall be the duty of the sheriff to enforce the provisions of this section.

§ 5. The sheriff shall also keep a proper book or books to be indorsed "civil docket," and numbered consecutively, in which he shall enter the title of all actions, suits and proceedings, in which any process or mandate shall be received, served or acted upon by him, or in which he shall render any services. He shall also state therein the action taken by him, and the date or dates thereof, which books shall be kept and remain in the sheriff's office. All the aforesaid books shall belong to and be paid for by the said county of Westchester.

§ 6. It shall be the duty of the sheriff to provide for the prisoners in the jail the kind and quality of food prescribed by law. Such food shall be supplied only upon requisitions in writing, addressed to the persons supplying the same made upon printed blanks, signed by the sheriff and dated, specifying in detail the amount by weight or measurement, and the quality and kind of food required. At time of the delivery of the food under such requisition, a receipt for the same shall be indorsed upon such requisition and signed by the sheriff. The sheriff shall cause to be kept accurate books of account, showing in detail all food for which requisitions are issued and the dates at which it was received, and such books shall be the property of the county, and shall always be open to the public

inspection. The bills for all food or provisions furnished under this act shall be made out in the form and with the verification required in the case of claims against the county of Westchester, to be presented to the supervisors at their annual session, together with the requisitions and receipts aforesaid attached thereto, which said supervisors shall audit the same, which bills shall be paid as other county charges. The food furnished under the aforesaid requisitions shall be used exclusively for the board and sustenance of the prisoners confined in the jail, and it shall be a misdemeanor punishable with fine and imprisonment for any person to convert the same to any other or different use or to his own use, or for any person having the charge thereof to permit the same to be used for any other purpose.

§ 7. It shall be the duty of the sheriff to make a report in tabulated form to the county treasurer of Westchester county, on the first day of each month, in which he shall state the name of each prisoner confined in the jail during the previous month, and the number of days of such month that he was confined therein, and the aggregate number of days of confinement of the entire number of prisoners confined therein. He shall state the total aggregate number of days of such month which the whole number of prisoners in said jail were confined therein. He shall state the quantity of each kind of food purchased for the prisoners during the preceding month, and the price thereof, and the respective persons, firms or corporations from whom the several articles were purchased. He shall also state the average cost per day of maintaining a prisoner in said jail during such preceding month.

§ 8. It shall be the duty of the county treasurer, immediately after the first day of November, in each year, to ascertain the total amount of each kind of food for which requisitions were made, and which was receipted for during the previous year, and the cost thereof, and also the total aggregate number of days for which prisoners were, during such year, confined in the jail, and the average cost per day of each prisoner. The county treasurer shall transmit to the board of supervisors, at its annual meeting, a summary in tabular form of each of the several matters stated in the aforesaid reports of the sheriff, and of the computation made by the said county treasurer, of the cost of maintaining the prisoners in the jail for the year preceding the first of November prior to such meeting, and the same shall be printed in the minutes of said board.

§ 9. Whenever it shall be proper that any jury in Westchester county shall, pending the trial or their deliberations in any case,

receive food or nourishment at the expense of the county, in some proper hotel or some other suitable place, it shall be the duty of the clerk of the court to certify, under the title of the cause or matter in which such jury have been drawn, that such jury, pending its deliberations, was necessarily supplied with certain meals, specifying the same, and the dates upon which they were supplied, and to deliver such certificates to the sheriff. The sheriff shall attach thereto his bill for the expenses incurred by him in providing food for such juries, which bill shall be made in the form, and shall be verified in the manner required in the case of bills presented to the supervisors of Westchester county. Said bill, when presented to the treasurer of Westchester county, accompanied with said certificate, shall be examined and allowed by him at a proper sum, and paid from the county treasury.

§ 10. Whenever any court of oyer and terminer, court of session or court of special session shall be held in the county of Westchester, it shall be the duty of the sheriff of Westchester county to furnish to such court a jail calendar, in which shall be stated, in addition to such other matter as may be required by law or as the court may, by its order, direct, the names of all persons confined in said jail, and in the case of the court of special session, excepting persons who have been indicted or have been committed to await the action of the grand jury. He shall state also the cause of such commitment to the jail and the period of the person's confinement therein. It shall be the duty of the district attorney, at the opening of the court, and at each session of the court of special sessions, to bring this matter specially to the attention of the court, and said court shall thereupon proceed to examine such calendar and investigate and inquire into such cases, and whenever there appears to be no sufficient legal reason for the further detention of any person in said jail the court shall direct that he be discharged therefrom.

§ 11. No tramp or vagrant convicted or sentenced by any magistrate in the county of Westchester shall, by any residence in the Westchester jail, gain a residence in said county, nor shall the time of his residence in said jail be in any way considered in any case determining his residence.

§ 12. Nothing in this act contained shall relieve the sheriff of Westchester county from any duties, obligations or services now or that may hereafter be imposed by law upon him.

§ 13. This act shall take effect on the first of January, eighteen hundred and ninety-five, and not before.

LAWS OF 1895, CHAP. 144.

AN ACT to amend the county law, relating to business hours in the county clerk's offices.

BECAME a law March 21, 1895, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section one hundred and sixty-five of chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-two, known as the county law, is hereby amended to read as follows:

§ 165. **Business hours in clerk's offices.**—Clerks of counties and courts of record shall respectively keep open their offices for the transaction of business every day in the year, except Sundays and other days and half days declared by law to be holidays or half-holidays, between the thirty-first day of March and the first day of October next following, from eight o'clock in the forenoon to five o'clock in the afternoon, and between the thirtieth day of September and the first day of April next following, from nine o'clock in the forenoon to five o'clock in the afternoon.

§ 2. This act shall take effect immediately.

LAWS OF 1895, CHAP. 150.

AN ACT to amend section one hundred and eighty-four of chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-two, entitled "An act in relation to counties," constituting chapter eighteen of the general laws.

BECAME a law March 21, 1895, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section one hundred and eighty-four of chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-two, entitled "An act in relation to counties," constituting chapter eighteen of the general laws, is hereby amended so as to read as follows:

§ 184. **Sheriffs' offices.**—Every sheriff shall keep an office in some proper place in the city or village in which the county courts of his county are held, of which he shall file a notice in the office of the county clerk. If there be more than one place of holding such courts, the notice shall specify in which place his office shall be kept, or it

SUPPLEMENTAL ACTS OF INTEREST TO COUNTIES.

may be specified that an office will be kept in all such places. Every sheriff's office shall be kept open, except Sundays and other days and half days declared by law to be holidays or half-holidays, from nine o'clock in the morning until five o'clock in the afternoon, during the months of November, December, January, February and March of each year, and from eight o'clock in the morning until six o'clock in the afternoon during the other months in each year. Every notice or other paper required to be served on any sheriff may be served by leaving the same at the office designated by him in such notice during the days and hours for which he is required to keep such office open, but if there be any person belonging to such office therein such notice or paper shall be delivered to such person, and every such service shall be deemed equivalent to a personal service on such sheriff.

§ 2. This act shall take effect immediately.

LAWS OF 1895, CHAP. 174.

AN ACT to amend chapter two hundred and thirty-one of the laws of eighteen hundred and seventy-six, as amended by chapter six hundred and twenty of the laws of eighteen hundred and ninety-three, relating to the office of supervisor of Erie county.

BECAME a law March 28, 1895, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section one of chapter two hundred and thirty-one of the laws of eighteen hundred and seventy-six, as amended by chapter six hundred and twenty of the laws of eighteen hundred and ninety-three, is hereby amended to read as follows:

§ 1. Each supervisor now or hereafter elected for any town or ward in the county of Erie, shall receive a compensation for his services as member of the board of county canvassers and as supervisor, an annual salary of five hundred dollars, besides travel fees at the rate of eight cents a mile for each mile actually traveled in going to and returning from the place of meeting once in each week during any meeting or session of the board of county canvassers or the board of supervisors, on the most usual route, and besides the fees now allowed by law for copying or extending their assessment-roll, the salary to be payable monthly from the treasury of said county and the mileage and fees for copying or extending their assessment-rolls on the last day of the annual session of said board in each year. And no such supervi-

SUPPLEMENTAL ACTS OF INTEREST TO COUNTIES.

nor shall receive any other or greater sum for his fees or services except when employed and actually rendering service on any committee of said board by its direction, when said board is not in session, he may charge for and receive at the rate of three dollars for each day's service thus actually performed, and mileage at the rate of four cents per mile, and except also for services rendered in towns which are by law a town charge; provided, however, that no supervisor shall receive in the aggregate to exceed one hundred dollars for services on committees, or to exceed fifty dollars for mileage for attendance on committees in any year. No supervisor shall serve upon or be a member of any special or standing committee of the board of supervisors, after his term of office shall have expired, and immediately upon such expiration the place of such supervisor upon any such committee shall become vacant.

§ 2. Such chapter is hereby further amended by inserting a new section therein, to be known as section four, and to read as follows:

§ 4. The board of supervisors of the county of Erie shall meet on the first Tuesday of January of every year for the purpose of organization, and on the first Tuesday in each other month of every year, and at such other times as said board may, by resolution adopted by a majority vote direct, and said board at all such meetings shall have the power to perform such duties as are imposed upon it by statute. The town boards in the several towns in the county of Erie shall meet for the purpose of auditing accounts and allowing or rejecting all charges, claims and demands against such towns on the last Thursday in September of each year.

§ 3. All acts or parts of acts inconsistent with this act are hereby repealed, so far as they may relate to the county of Erie.

§ 4. This act shall take effect January first, eighteen hundred and ninety-six.

LAWS OF 1895, CHAP. 266.

AN ACT to amend chapter one hundred and thirty of the laws of eighteen hundred and ninety-three, relating to the term of office of supervisors in counties containing upward of three hundred thousand and less than six hundred thousand inhabitants.

BECAME a law April 8, 1895, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section one of chapter one hundred and thirty of the laws of eighteen hundred and ninety-three, entitled "An act to provide for

SUPPLEMENTAL ACTS OF INTEREST TO COUNTIES.

a uniform term of office for supervisors in towns and cities in the counties of this State containing upward of three hundred thousand and less than six hundred thousand inhabitants," is hereby amended to read as follows:

§ 1. In each of the counties of this State containing over three hundred thousand inhabitants and less than six hundred thousand inhabitants as now appears or as may hereafter appear by the latest Federal or State enumeration of inhabitants, and within which is, or may be, a city divided into wards from which supervisors are elected for a longer term than one year, the term of office of supervisors of the respective towns shall be as long as the term of office of the city supervisors. The terms of office of all such supervisors shall begin on the first day of January next succeeding their election.

§ 2. This act shall take effect immediately.

78kk

LAWS OF 1896, CHAP. 212.

AN ACT to provide for the care of court papers, judgment rolls and other papers and instruments in the Rensselaer county clerk's office.

BECAME a law April 7, 1896, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. It shall be the duty of the clerk of Rensselaer county to appoint a proper custodian who shall have the immediate care and charge, subject to the directions of the clerk, of all court papers, judgment-rolls, and other papers and instruments on file in his office, and who shall receive from the county of Rensselaer, in addition to any compensation to be paid to him by said county clerk, a salary of eight hundred dollars per annum ; and who shall, in addition to the duties hereinafter enumerated, perform such other duties for the clerk as shall be prescribed by him. And it shall be a misdemeanor on the part of any person not employed in the office to take from the receptacles in which they may be placed or contained any of the papers in said office ; and the same shall be delivered to any party or parties desiring to inspect or copy them, only by the custodian appointed under this act, or by such party in the employment of the clerk of the county of Rensselaer as he shall designate for that purpose, or by the clerk himself, upon written requisitions to be made upon blanks which shall be furnished by the county clerk, and on which shall be written by the applicant therefor the date, nature of the record required, and the name of the party seeking it, and such requisition shall be kept and preserved by the county clerk in his office, and shall be filed in a proper receptacle according to their dates ; and except by and pursuant to an order of the court, or in accordance with the terms of a subpoena, no paper, document, map or instrument or public record and no book of record, or book required to be kept in the office of the clerk of Rensselaer county, shall be removed or taken therefrom.

§ 2. This act shall take effect immediately.

LAWS OF 1896, CHAP. 820.

AN ACT authorizing boards of supervisors to appoint commissioners for the equalization of taxes.

BECAME a law May 21, 1896, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The board of supervisors of any county of the state may by the concurring vote of a majority of all the supervisors elected to such board, resolve to appoint three persons to be commissioners of equalization of such county. They shall thereupon appoint such commissioners, two of whom shall be residents of such county and not members of the board of supervisors, and the third commissioner shall not be a resident of or a taxpayer in such county, but shall reside in the judicial district in which such county is situated. If there be one or more cities in such county one of such commissioners shall be a resident of such city or cities and one shall be a resident of the towns in such county outside of such city or cities. The commissioner appointed from such city or cities shall be named by the supervisors representing such city or cities, and the commissioner appointed from the towns outside of such city or cities shall be named by the supervisors representing such towns. Both such commissioners, including the third commissioner appointed from the judicial district outside of such county, shall be confirmed by a two-thirds vote of all the members of the board of supervisors. If, after such board has resolved to appoint such commissioners of equalization, they are unable to agree upon the commissioners to be appointed as provided by this section, and such commissioners are not appointed before the first day of July, succeeding the time when such resolution was adopted, the clerk of such board shall apply to the county judge of such county certifying to him the fact that such resolution was adopted and such commissioners have not been appointed pursuant thereto and such county judge shall appoint the commissioners subject to the provisions of this section relating to their places of residence. The term of office of each such commissioners shall be three years. Not more than one commissioner shall reside in the same town or city, and if a commissioner remove to a town or city in which another commissioner resides, the office of the commissioner so removing shall thereon become vacant. Such appointments shall be so made that not more than a majority of the commissioners belong to the same political party, and the other commissioner shall be chosen from the other political party polling in such county at the last general election either the highest or the next

SUPPLEMENTAL ACTS OF INTEREST TO COUNTIES.

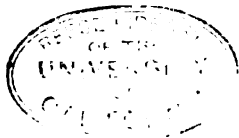
highest number of votes. If the office of any commissioner become vacant before the expiration of his term, such vacancy shall be filled, for the unexpired term, by the appointment of a person of the same political faith as his predecessor at the time of his appointment. Each commissioner shall be paid by the county for his services, a sum to be fixed by the board of supervisors, not exceeding the rate of four dollars per day, for the time necessarily and actually occupied in the performance of his duties, and his necessary and reasonable expenses incurred while absent from his home in the discharge of his duties, but the total amount paid to any commissioner for his services and expenses in any one year shall not exceed three hundred dollars.

§ 2. Between the first day of September and the time of the annual meeting of the board of supervisors in each year the commissioners shall examine the assessment-rolls of the several towns in their county for the purpose of ascertaining whether the valuations in one town or ward bear a just relation to the valuations in all the towns and wards in the county, and they may increase or diminish the aggregate valuations of real estate in any town or ward by adding or deducting such sum upon the hundred as may, in their opinion, be necessary to produce a just relation between all the valuations of real estate in the county, but they shall in no instance reduce the aggregate valuations of all the towns and wards below the aggregate valuations thereof as made by the assessors. If the office of any commissioner become vacant before the expiration of his term such vacancy shall be filled for the unexpired term by the appointment of a person of the same political faith as his predecessor at the time of his appointment.

§ 3. On or before the fourth day of the annual meeting of the board of supervisors in each year the commissioners shall file with the clerk of such board of supervisors their report of the equalized valuations of real estate, signed by a majority of such commissioners, and the same shall be binding and conclusive on such board of supervisors as an equalization of the assessments of real estate for such year.

§ 4. This act shall take effect immediately.

78nn



LAWS OF 1896, CHAP. 854.

AN ACT to suspend the operation of the amendatory part of chapter one hundred and seventy-eight of the laws of eighteen hundred and ninety-six amending section sixty-nine of the county law so far as the same relates to the towns of Flushing, Newtown and North Hempstead in Queens county.

BECAME a law May 22, 1896, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Nothing in the amendment of chapter one hundred and seventy-eight of the laws of eighteen hundred and ninety-six, amending section sixty-nine of the county law, shall apply to the towns of Flushing, Newtown and North Hempstead before September first, eighteen hundred and ninety-six.

§ 2. This act shall take effect immediately.

LAWS OF 1896, CHAP. 937.

AN ACT to authorize and empower any late county treasurer of any county in the state to maintain an action for the recovery of moneys, funds or properties belonging to the county or deposited with the treasurer thereof pursuant to law, without right obtained, received, converted, disposed of or withheld by any person, association or corporation, their assigns and legal representatives.

BECAME a law May 27, 1896, with the approval of the Governor. Passed, a majority being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The county treasurer of any county in this state, within three years after he has ceased to be county treasurer, may maintain an action in any court of record in this state as late county treasurer to recover any moneys, funds or properties belonging to the county or deposited with such county treasurer pursuant to law, without right obtained, received, converted or appropriated, disposed of or withheld by any party or parties, association or corporation, their legal representatives and assigns, during the term or terms of office of such county treasurer.

§ 2. Any and all moneys, funds and properties recovered in an action brought as specified in section one of this act, shall, be paid to

and deposited with the then treasurer of the county from which such moneys, funds and properties were taken.

§ 3. Upon the payment of any moneys or the depositing of any funds by a late county treasurer bringing an action, as provided for in sections one and two of this act, such late county treasurer shall be forthwith credited with the amount and value of such deposit.

§ 4. This act shall apply to all county treasurers of this state elected to office on or after the seventh day of November, eighteen hundred and eighty-two.

§ 5. This act shall not abridge or affect in anywise any action or actions now pending against any county treasurer or ex-county treasurer.

§ 6. This act shall take effect immediately.

LAWS OF 1896, CHAP. 942.

AN ACT relative to the supply of pure and wholesome water in certain counties in the state.

BECAME a law May 27, 1896, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Whenever the board of supervisors of any county in this state which does not contain an incorporated city and is within forty miles of a city of the first class containing over eight hundred thousand and less than one million inhabitants shall, by a majority vote of said board, to be duly entered upon the minutes of their proceedings, decide that certain streams and ponds within such county are necessary for the supply of pure and wholesome water to the people residing in such county, the said board shall direct a certificate to that effect to be duly signed and acknowledged by the chairman and clerk of said board, and cause the same to be recorded in the office of the clerk of said county, and said county clerk shall, upon the receipt by him of such certificate, record the same in a book to be kept for that purpose, and shall charge and receive for recording the same, the sum of one dollar and fifty cents for each certificate so recorded.

§ 2. The certificates mentioned in section one of this act shall contain:

1. The name and designation of such pond and stream.
2. A brief description of the same.
3. The town in which the same is located.

SUPPLEMENTAL ACTS OF INTEREST TO COUNTIES.

4. The name and address of the last known owner or owners of pond and stream.

5. The name and address of the owner and owners of lands cent thereto.

§ 3. Whenever such certificate has been duly recorded, as provided by sections one and two of this act, it shall not be lawful for any person, corporation or municipality to enter into, or upon such ponds or streams, or upon the land adjacent thereto and take water therefrom for the purpose of supplying water to any city or county, other than to the citizens of the county, wherein such certificate is recorded, except upon the written consent of a majority of the supervisors elected to said board of supervisors under their hands and seals certifying that the said ponds or streams are no longer necessary for the purposes for which such ponds or streams may have been set apart as provided in the first section of this act.

§ 4. All acts and parts of acts inconsistent with this act, in so far as they are inconsistent, are hereby repealed.

§ 5. This act shall take effect immediately.

78qq

FORMS FOR COUNTY LAW.

Form No. 1. Section 14.

A resolution to borrow fifteen thousand dollars on the credit of the county of, by the issue of bonds of said county therefor, and to authorize the county treasurer to issue and negotiate said bonds for the purpose of putting an additional story on the city and county hall in the city of, New York, passed in pursuance of the provisions of Laws of, chapter, and the several amendments thereto, by a vote of a majority of all the supervisors elected to the board of supervisors of county, voting in favor thereof by yeas and nays; viz.: votes for, and votes against, such resolution.*

Such resolution was adopted by the board of supervisors of the county of, held at, in the city of, on the day of, 189..

Resolved, That the of the county is (or are) authorized to issue the obligations of such county for the purpose of (state purpose for which bonds are to be issued) in the amount of dollars, for a period of (not exceeding thirty) years, payable in annual installments (or otherwise), at (prescribe place), with interest at the rate of per cent per annum; and that such bonds shall not be sold at less than par, and shall be in the following form:

(Insert form of bond.)

Before issuing such bonds, such officer shall give security to such county, in the amount of dollars, for the faithful performance of his (or their) duty, in issuing the same, and the lawful application of the funds arising therefrom, and of the funds which may be raised by tax for the payment thereof, which may come into their hands.

Adopted.

Ayes

Noes

Certified:

A. B., *Chairman*.

C. D., *Clerk*.

This form may be readily adapted to resolution to issue town obligation.

Form No. 2. Section 17.

RESOLUTION NO.

A resolution to (concisely express its contents) passed in pursuance of the provisions of chap. of Laws of, and the several amendments thereto, by a vote of for and against its passage; (if the assent of any supervisor is required, then state), and assented to by the supervisor of the town of Such resolution was adopted at a meeting of the board of supervisors of the county of, held at in the city of, on the day of, 189..

Resolved (state resolution).

Vote:

Ayes, No.

Noes, No.

Certified:

A. B., *Chairman*.

C. D., *Clerk*.

FORMS FOR COUNTY LAW.

Form No. 3. Section 19.

NOTICE TO SECRETARY OF STATE.

To the Honorable, Secretary of State :

Notice is hereby given, in pursuance of section 19 of the county law, that the (state name of paper), published at, has been designated pursuant to law by a majority of the members representing the party, and the (state name of paper), published at, has been designated in pursuance of law by a majority of the members representing the party, in the board of supervisors of the county of, as the newspapers to publish the session laws and concurrent resolutions required by law to be published in such county.

Dated this day of, 189..

C. D.,

Clerk of the Board of Supervisors of the County of

Form No. 4. Section 24.

FORM OF ACCOUNT AGAINST COUNTY.

The County of in account with E. F., Dr.

DATE.	Nature of Account.	Amount.
.....

Dated this day of, 189..

STATE OF NEW YORK, }
COUNTY OF, } ss.:
Town of, }

E. F., being duly sworn, says that the items of the foregoing account are correct; that the disbursements and services charged therein have been in fact made or rendered (or are necessary to be made or rendered at that session of the board), and that no part of the amount claimed has been paid or satisfied.

E. F.

Subscribed and sworn to before me, }
this day of, 189.. }

Justice of the Peace.

If the board has made additional requirements, under section 25 of this law, as to the form of official accounts, they must be complied with in drafting the account.

Form No. 5. Section 27.

SUBPENA BY BOARD.

The People of the State of New York to E. F. :

We, the supervisors of the county of, command you, that (all and singular business and excuses being laid aside) you attend before said board, at the rooms of said board, in the of the city of,

FORMS FOR COUNTY LAW.

on the day of, 189..., at o'clock in the noon, to testify touching (state matter), and that you produce on such examination all books, papers and documents in your possession or under your control, relating to (state matter) (or if any particular book or document is required, so specify), and for a failure to attend and produce such books, papers and documents you will be deemed guilty of contempt and will be proceeded against in the manner provided by the Code of Civil Procedure.

A. B., *Chairman.*

Dated this day of, 189..

Form No. 6. Section 28.

SUBPENA BY COMMITTEE.

The preceding form may be readily adapted for use under this section.

Form No. 7. Section 29.

AFFIDAVIT TO BE PRESENTED TO A COURT, WHERE WITNESS HAS FAILED TO ATTEND AFTER BEING DULY SUBPENAED BY THE BOARD.

STATE OF NEW YORK, }
COUNTY OF, } ss.:
City of, }

A. B., being duly sworn, says, that he is the chairman of the board of supervisors of the county of; that on the day of, 189..., a subpoena was duly issued by said board, commanding E. F. to attend before said board at, on the day of, 189..., at o'clock in the noon, to testify touching (state matter), and to produce (state book, paper or document); that such subpoena was duly served as appears from the affidavit of G. H., hereto annexed; and that the said E. F. neglected or refused to attend before said board as commanded by said subpoena (or neglected or refused to produce such book, paper or document).

A. B.

Subscribed and sworn to before me, }
this ... day of, 189... }

.....,
Notary Public.

Form No. 8. Section 29.

AFFIDAVIT OF SERVICE OF SUBPENA.

STATE OF NEW YORK, }
COUNTY OF, } ss.:

G. H., being duly sworn, says, that on the day of, 189... at, he served the within subpoena personally upon E. F., the person therein named as a witness, by then and there exhibiting to him such original subpoena, and delivering to him a copy thereof.

G. H.

Subscribed and sworn to before me, }
this day of, 189... }

.....,
Justice of the Peace.

FORMS FOR COUNTY LAW.

Form No. 9. Section 29.

WARRANT FOR ARREST OF DELINQUENT WITNESS.

The People of the State of New York to the Sheriff of the county of

You are hereby commanded to apprehend E. F. and bring him before me (or before our Supreme Court at a Special Term thereof, or before the County Court), on the day of, 189.., at o'clock in the noon of that day, to answer touching a contempt alleged to have been committed by him against the board of supervisors of the county of

And have you then and there this writ, and make and return a certificate under your hand of the manner in which you shall have executed the same.

Witness, Hon., Justice of the Supreme Court, at
[SEAL.] the, in, this day of, 189..
....., *Clerk.*

(If issued by a judge only, date and sign merely.)

Form No. 10. Section 29.

UNDERTAKING UPON ARREST.

WHEREAS, has been arrested upon a warrant issued by the Hon., judge of the county of, (or justice of the Supreme Court), for failure to attend and testify before the board of supervisors of the county of (or to produce a book, paper or document); now, therefore,

We, the said, as principal, and and as sureties, do hereby jointly and severally undertake, by and with the county of, that the said will appear and submit to an examination before such board (or committee), at, on the day of, 189.., at o'clock in the forenoon, or pay to the treasurer of such county such sum of money as such judge (or justice) may direct.

Dated this day of, 189...

.....
.....
.....

STATE OF NEW YORK, } ss.:
COUNTY OF, }

Before me, the subscriber, personally appeared,, and, personally known by me to be the persons described in and who executed the foregoing undertaking and severally acknowledged that they executed the same.

Dated this day of, 189...

....., *Notary Public.*

AFFIDAVIT OF JUSTIFICATION.

STATE OF NEW YORK, } ss.:
COUNTY OF, }

..... and, the sureties named in the foregoing undertaking, being duly and severally sworn, each for himself says, that he is a resident of and a freeholder (or householder), within the State, and is worth the sum of

FORMS FOR COUNTY LAW.

dollars, over and above his debts and liabilities, and exclusive of property exempt by law from levy and sale under an execution.

Subscribed and sworn to before me, }
this day of, 189... }

.....,
Notary Public.

APPROVAL.

I hereby approve the foregoing undertaking and the sufficiency of the sureties therein named.

....., *County Judge.*

Form No. 11. Section 31.

PETITION FOR CHANGE OF LOCATION OF COUNTY BUILDINGS.

To the Board of Supervisors of the County of..... :

We, the undersigned, freeholders of the county of....., hereby petition in pursuance of section 31 of the county law, that the site of the..... (describe building or office), now located in the city of....., be changed to a new site in the city of..... (describe particularly the place at or near which it is proposed to locate such new buildings or office.)

At least twenty-five freeholders of the county must sign such petition.

Dated this.....day of....., 189..

A. B.,
C. D., &c.

Form No. 12. Section 32.

PROOF OF PUBLICATION TO BE PRESENTED WITH PETITION.

(Attach copy of petition and notice published.)

STATE OF NEW YORK, }
COUNTY OF....., } ss.:

S. D., being duly sworn, says that he is the (owner, editor or foreman) of the (insert name of paper) a (daily or weekly) newspaper published in the village (or city) of, and that the petition and notice, of which the foregoing are true copies, were duly published in such newspaper once in each week for the six consecutive weeks immediately preceding the date thereof.

S. D.

Subscribed and sworn to before me, }
this.....day....., 189.. }

C. D., *Notary Public.*

Form No. 13. Section 32.

(For proof of publication of resolution and notice of submission thereof, see Form No. 12.)

Form No. 14. Section 31.

NOTICE TO BE PUBLISHED WITH FOREGOING PETITION.

Notice is hereby given, that a petition, of which the foregoing is a true copy, will be presented to the board of supervisors of the county of....., at the next annual meeting thereof.

Dated this... .. day of....., 189..

A. B.,
C. D., &c.

FORMS FOR COUNTY LAW.

Form No. 15. Section 32.

FORM OF RESOLUTION SUBMITTING PROPOSITION TO VOTE OF ELECTORS.

(For form of title of resolution, see Form No. 2.)

WHEREAS, A petition has been presented to us in pursuance of section 32 of the county law, to change the site of the (state building) located in the city of, to a new site in the city of being the vacant lot on the north-west corner of and streets in such city; and

WHEREAS, Due proof has been made to us that such petition, with a view to present the same to the board of supervisors of the county of , at its next annual meeting, has been published as required by section 81 of the county law.

Resolved, That the (describe building or office) be changed to the site described in such petition.

Adopted.

Ayes.— 14.

Noes.— 0.

Certified:

....., Clerk
....., Clerk

Form No. 16. Section 32.

To the Electors of the County of

Take notice that the foregoing resolution for the removal of the (describe building or office) will be submitted to the electors of the county of , at the ensuing general election.

Dated this ... day of, 189..

....., Clerk
....., Clerk

Form No. 17. Section 34.

APPLICATION FOR ALTERATION OR ERECTION OF TOWN.

To the Board of Supervisors of the County of

We, the undersigned freeholders of the county of, having been petitioned, in pursuance of section 34 of county law, that the bounds of the town of be changed or altered as follows: (describe survey of land) that a new town be erected in such county, described as follows: [describe town]

Dated this day of, 189..

A. B., residing in the town of

C. D., residing in the town of

(Signed by at least twelve freeholders of each town affected.)

Form No. 18. Section 34.

NOTICE TO BE PUBLISHED AND POSTED.

Notice is hereby given that a petition, of which the foregoing is a true and correct copy, has been filed in the office of the clerk of the county of

FORMS FOR COUNTY LAW.

presented to the board of supervisors of the county of at
annual meeting thereof.

the day of, 189..

A. B.,
C. D., &c.

signed by same freeholders who signed the application.

(For proof of publication, see Form No. 12.)

Form No. 19. Section 34.

PROOF OF POSTING.

OF NEW YORK, }
TY OF, } ss.:

being duly sworn, says that he is a resident of the town of,
he posted the foregoing notice in five conspicuous public places in the
..... on the day of, 189.., between the hours of
and in the noon.

N. H.

ed and sworn to before me, }
... day of, 189.. }

.....,

Notary Public.

Form No. 20. Section 36.

town Board of the Town of in the County of

notice that we intend to apply to the board of supervisors of the county
....., at a meeting of such board to be held at the in the
....., on the day of, 189.., at o'clock, .. M.
ish and define the boundary line between the town of and
a of in said county, which line is now described as follows:
arly describe it). The line as proposed to be acted upon by said board is
in the following survey: (insert survey of new line).

this day of, 189..

....., *Supervisor.*

....., *Town Clerk.*

.....,

.....,

.....,

Justices of the Peace.

Majority of Town Board of the Town of in said County.

Form No. 21. Section 36.

(For form of proof of publication of intention to apply, see Form No. 12.)

Form No. 22. Section 36.

(For form of proof of service of notice of intention to apply, see Form No. 8.)

FORMS FOR COUNTY LAW.

Form No. 23. Section 36.

APPLICATION TO ESTABLISH DISPUTED LINES.

To the Board of Supervisors of the County of

We, the undersigned, a majority of the members of the town board of the town of, hereby petition,

That the boundary line between the town of and the town of , aforesaid, described as follows: (insert description of present line) be defined and established by your board, in pursuance of section 36 of the county law, in accordance with the following survey: (insert survey of new line.)

Dated this .. day of, 189 .

....., *Supervisor.*

....., *Town Clerk.*

.....,

.....,

.....,

Justices of the Peace.

Form No. 24. Section 36.

COPY OF RESOLUTION TO BE FORWARDED TO SECRETARY OF STATE.

(For title of resolution, see Form No. 2.)

Resolved, That the boundary line between the town of and the town of, in said county, be defined and established in accordance with the following survey, as indicated on the map hereto annexed and made part of this resolution: (insert a full description of the survey, with courses, distances and fixed monuments.)

Adopted.

Ayes

Noes

Certified:

....., *Chairman.*

....., *Clerk.*

(Annex map.)

Form No. 25. Section 37.

PETITION TO ESTABLISH A FIRE DISTRICT OUTSIDE OF AN INCORPORATED CITY OR VILLAGE.

To the Board of Supervisors of the County of

We, the undersigned, being a majority of the taxable inhabitants of the proposed fire district, outside of an incorporated village or city, and within the county of, whose names appear upon the last preceding assessment-roll of the town of, in which said proposed fire district is located, as owning or representing more than one-half of the taxable property of the proposed district, do hereby petition, in pursuance of section 37 of the county law, that the territory hereinafter described be established as, and constitute, a fire district under the provisions of said section.

The said proposed district is described as follows (insert description):

Dated this day of, 189...

.....

.....

.....

FORMS FOR COUNTY LAW.

Form No. 26. Section 37.

VERIFICATION OF FOREGOING PETITION.

OF NEW YORK, }
 OF } ss. :
 (the names of the persons signing petition), being
 orally sworn, each for himself, says, that he executed the foregoing
 and that the same is true of his own knowledge, except as to those
 herein stated to be alleged upon information and belief, and that as to
 others he believes it to be true.

I and sworn to before me, }
 day of....., 189... }

Justice of the Peace.

Form No. 27. Section 51.

of accounts against the county of, presented to the
 supervisors at its last annual meeting.

CLAIMANT.	Nature of account.	Amount claimed.	Amount allowed.
.....	Printing	\$350 00	\$300 00

COMPENSATION AUDITED TO EACH MEMBER OF THE BOARD.

NAME.	Town or ward.	Number of days attending meetings of board and the county canvass.	Amount allowed for attendance, at four dollars per day.	Number miles necessarily traveled in discharge of official duties.	Amount allowed for travel at eight cents per mile.	Amount allowed for making copy of assessment-roll and extending the same.	Total amount claimed.	Total amount allowed.

FORMS FOR COUNTY LAW.

The board of supervisors were in session during the year ending with the..... day of, 189..., days, and the distance necessarily traveled by each member in attending the meetings thereof, is as stated in the foregoing table.

The following are the abstracts of accounts of the several towns of the county, as furnished to the board of supervisors by the several boards of town auditors thereof.

Dated this day of, 189..

....., *Clerk.*

Form No. 28. Section 51.

FORM OF ABSTRACT TO BE ATTACHED.

COUNTY OF, } *ss.:*
TOWN OF, }

The undersigned, board of town auditors of said town of, hereby certify that the following is an abstract of the names of all persons who have presented to said board accounts to be audited, the amounts claimed by each of said persons and the amounts finally audited to them respectively.

NAMES.	Amount claimed.	Amount audited.
.....	\$300 00	\$200 00
.....	200 00	150 00
In like manner with other items.		

Dated, 189..

....., *Supervisor.*

....., *Town Clerk.*

.....,

.....,

.....,

Justices of the Peace.
Board of Town Auditors.

Form No. 29. Section 51.

CERTIFICATE OF CLERK OF BOARD OF SUPERVISORS TO FOREGOING STATEMENT.

STATE OF NEW YORK, } *ss.:*
COUNTY OF, }

I,, clerk of the board of supervisors of county, do hereby certify that the foregoing statement of supervisors' accounts is true and correct in each and every item thereof, and comprises a correct statement of the amount of compensation audited by said board to the supervisors, for the current year, for the special sessions and regular session of said current year, to the close of the annual session; that said board was in annual session thirty days, and in special session three days, making a total of thirty-three days, and that no account was audited or allowed to any member of said board during said sessions, or to any other person, without being duly verified according to law.

Dated this day of, 189..

....., *Clerk of the Board of Supervisors of the County of*

FORMS FOR COUNTY LAW.

Form No. 30. Section 52.

STATEMENT OF AGGREGATE VALUATION.

(Form prescribed by comptroller.)

Statement of the aggregate valuations of real and personal estate, and amount of taxes levied, in the several towns and wards in the county of, as corrected by the board of supervisors at their annual meeting in the year one thousand eight hundred and ninety

TOWNS.	Acres of land.	Assessed value of real estate, including village property and real estate of corporations.	Assessed value of personal estate.	Corrected aggregate valuation, real and personal.	Amount of town taxes.	Amount of county taxes.	Amount of State tax for schools.	Amount of State taxes, exclusive of school tax.	Aggregate taxation.	Rate of tax on \$1 valuation.
										Mills.

[Note.—These columns are all to be correctly footed by the clerk of the board of supervisors, and the table returned to the comptroller, by mail, previous to the second Monday in December, in each year.]

I,, clerk of the board of supervisors of the county of, do hereby certify that the preceding is a true statement of the aggregate valuation of the real and personal estate in the several towns and wards in said county, as corrected by said board of supervisors, at their annual meeting in the month of 189..

....., Clerk.
(P. O. address.)

NOTE.—Form for statement of indebtedness has not yet been prescribed by comptroller.

Form No. 21. Section 53.

STATEMENT.

A statement of the names of the several railroad corporations, and telegraph, telephone and electric light lines liable to taxation in the county of; the amount of real and personal estate belonging to each, as the same is set down in the assessment-rolls of the towns or cities therein, which have been sanctioned by

FORMS FOR COUNTY LAW.

the board of supervisors of said county, and the amount of tax assessed upon each, for the year one thousand eight hundred and ninety.....

TOWNS.	Name of corporation.	Title.	Valuation of real property.	Valuation of personal property.	Amount of tax assessed or levied.

Dated this day of, 189..

.....
Clerk of the Board of Supervisors of the County of

Form No. 32. Section 61.

APPLICATION FOR A COUNTY HIGHWAY OR BRIDGE.

To the Board of Supervisors of the County of

We, the undersigned resident tax payers of the county of, hereby make application, in pursuance of section 61 of the county law, for the laying out (or discontinuing) of a county highway, described as follows: (insert a definite description of the proposed highway.)

Dated this day of, 189 .

.....

The application must be signed by twenty-five resident tax-payers of the county.

Form No. 33. Section 61.

NOTICE OF FOREGOING APPLICATION.

To the Highway Commissioners of the several Towns in the County of

Notice is hereby given that on the day of, 189., the foregoing application for laying out (or whatever the object may be) a county highway will be presented to the board of supervisors of the county of (if the application is to lay out a highway or construct a bridge, then specify the route or location thereof; and in all other cases, a designation of the highway to be affected thereby).

A. B.,
 C. D., &c.

FORMS FOR COUNTY LAW.

Form No. 34. Section 61.

PROOF OF SERVICE OF FOREGOING NOTICE.

OF NEW YORK, } ss.:
Y OF....., }

....., being duly sworn says, that he is a resident of....., N. Y.,
he served copies of the petition and notice annexed hereto, personally,
of the following commissioners of highways at the times and places
their names, respectively:

....., at, N. Y., May 9, 1892, at o'clock, in the

....., at, N. Y., May 10, 1892, at o'clock, in the

.....
ed and sworn to before me, }
..... day of....., 189.... }

.....,

Notary Public.

Form No. 35. Section 61.

RESOLUTION TO LAY OUT, ETC., A COUNTY HIGHWAY.

(For title to resolution, see Form No. 2.)

AS, Application has been made for the laying out (altering or discon-
of a highway in said county; and

AS, Satisfactory proof has been made to us of the service of a copy of
lication, together with a notice of intention to make the same, upon a
wner of highways of each town in said county.

That a highway of the width of be laid out in accordance
application, the center of which is to commence at
thence (insert survey).

d.

....

....

Certified:

....., *Chairman.*

....., *Clerk.*

Form No. 36. Section 65.

APPORTIONMENT OF EXPENSE.

(For title to resolution, see Form No. 2.)

AS, The public free bridge at..... is intersected by the boundary
d county, and also by the boundary line between the towns of.....
.. in said county; now, therefore, in pursuance of section 65 of the
w,

That the town of..... defray of the expenses of con-
maintaining and repairing such bridge, and that the town of.....
..... of the expenses of constructing, maintaining and repairing such

FORMS FOR COUNTY LAW.

bridge, and that the town of..... receive the sum of \$.....
town of..... the sum of \$... .., of the money raised by sale
to be paid toward defraying the expenses of constructing and repairing
bridge.

Adopted.

Ayes.— 14.

Noes.— 1.

Certified:

....., Clerk
....., Clerk

Form No. 37. Section 67.

AUTHORIZATION TO CONSTRUCT BRIDGE OUTSIDE OF BOUNDARY

(For title to resolution, see Form No. 2.)

WHEREAS, A majority of the electors of the town of..... v
regular town meeting, held on the.....day of....., 189.., deter
appropriate (or to pledge its credit for) the sum of \$....., to aid in
struction of (or to construct) a bridge outside the boundaries of said
county) at.....(or from or within the boundary line of said town
town of.....),

Resolved, That such town be authorized to appropriate (or to pledge
for) such sum, to aid in the construction of (or to construct) such bridge

Adopted.

Ayes.— 14.

Noes.— 3.

Certified:

....., Clerk
....., Clerk

Form No. 38. Section 75.

APPLICATION FOR THE APPROPRIATION OF CERTAIN HIGHWAY TAX

To the Board of Supervisors of the County of.....:

We, the undersigned, being the owners of a majority in value, as app
the last annual assessment-roll, of the real estate lying along the line of
way commencing at....., and running thence (describe highway)
highway is laid out through unimproved lands, but not provided for in
preceding election, hereby apply,

That the highway tax, assessed upon the lands lying along the line
proposed highway, which are owned by non-residents, be appropriated
improvement thereof.

Dated this.....day of....., 189..

.....
.....

DAILY RECORD OF PERSONS COMMITTED TO COUNTY JAILS.

[illegible]

Dated the.....day of....., 189..

....., ***Keeper of Jail of the County of.....***

FORMS FOR COUNTY LAW.

Form No. 40. Section 97.

CALENDAR FOR COURTS OF OYER AND TERMINER AND SESSI

NAMES OF PRISONERS.	When committed.	By what precept.	Cause of

Form No. 41. Section 118.

APPLICATION TO FENCE VIEWERS.

To and, *Fence Viewers of the Town (Village)*
of

WHEREAS, on the day of, 189.,
lambs owned by me were attacked by dogs, and killed and

I hereby make application to you to inquire into the matter, and cer
number of sheep killed and injured, their value, etc., in pursuance of
of the county law.

Dated this day of, 189..

.....

Form No. 42. Section 118.

CERTIFICATE.

COUNTY OF, }
TOWN OF, } ss.:

We, the undersigned, fence viewers of the town of
application of to inquire into the killing and injury of cer
and lambs owned by him, having inquired into the matter, and examined
in regard thereto, do hereby certify that such sheep and lambs were
injured by dogs, and in no other way; that the number of sheep and la
was; the number injured was; the value of such sheep
killed or injured immediately previous to such killing or injury was \$
the value of such sheep and lambs after being so killed was \$....., a
injured was \$.

We do hereby further certify that our fees herein amount to \$.....

Given under our hands this day of, 189..

.....
.....

Fence

Form No. 43. Section 140.

UNDERTAKING OF COUNTY TREASURER.

WHEREAS, was elected (or appointed) treasurer of
of, on the day of, 189.; now, there

FORMS FOR COUNTY LAW.

....., as principal, and and
 es, do hereby jointly and severally undertake to and with the county
, in the sum of, that the said will
 execute the duties of his office as treasurer of the said county of
 pay over according to law, and account for all moneys, property and
 which shall come into his hands as such treasurer, render a just and
 unt thereof to the board of supervisors when required, and will obey all
 d directions of a competent court relating thereto.

....., 189..

OF NEW YORK, } ss.:
 OF

me, the subscriber, personally appeared and
, to me personally known to be the persons described in and who
 the foregoing undertaking and severally acknowledged, each for himself,
 recuted the same.

.....,
Notary Public.

OF NEW YORK, } ss.:
 OF

.....and....., the sureties mentioned in the foregoing
 ing, being severally duly sworn, says, each for himself, that he is a resi-
 freeholder (or householder) within this State, and is worth.....
 ver and above all debts and liabilities which he owes or has incurred,
 usive of property exempt by law from levy and sale on execution.

ed and sworn to before me, }
 ...day of....., 189.. }

.....,
Justice of the Peace.

APPROVAL.

ard of supervisors have duly approved of the within undertaking, and
 efficiency of the sureties therein named.

.....,
Clerk.

(Or if the board is not in session.)

reby approve of the within undertaking, and of the sufficiency of the
 herein named.

.....,
County Judge.

.....,
County Clerk.

FORMS FOR COUNTY LAW.

Form No. 44. Section 141, Subd. 3.

STATEMENT OF COUNTY TREASURER.

....., Treasurer, in account with the County of.....

Dr.

Cr.

On account of fund	\$500 00	Compensation of supervisors.....	\$400 00
.....
.....

Dated this.....day of....., 189..

....., *Treasurer.*

STATE OF NEW YORK, } *ss.:*

COUNTY OF....., }

....., being duly sworn, says that he is treasurer of the county of....., and that the foregoing statement of his accounts is in all respects true.

Subscribed and sworn to before me, }
this.....day of, 189.. }

.....,
Notary Public.

Form No. 45. Section 141, Subd. 4.

STATEMENT OF COUNTY TREASURER TO COMPTROLLER..

To the Hon....., *Comptroller of the State of New York:*

The following is a true and correct statement of all penalties belonging to the people of the State received by me during the year ending with the first day of March, 189...:

From whom received	Amount.
.....
.....

Dated this.....day of... .., 189..

.....,
Treasurer of the County of.....

Form No. 46. Section 143.

DESIGNATION OF BANK BY COUNTY TREASURER.

STATE OF NEW YORK, } *ss.:*
COUNTY OF....., }

I,, treasurer of the county of, do hereby designate, in pursuance of section 143 of the county law, the bank, located in the city of, as a bank of deposit, for moneys received by me as treasurer of said county.

Dated this day of, 189..

....., *Treasurer.*

FORMS FOR COUNTY LAW.

Form No. 47. Section 144.

UNDERTAKING OF DEPOSITARY.

WHEREAS, The bank, located in the city of, has been designated, in pursuance of section 143 of the county law, as a bank of deposit of all moneys received by the county treasurer of the county of; now, therefore, we,, and, sureties, do hereby jointly and severally undertake, to and with the county of, that the said bank will faithfully keep, and pay over on the order or warrant of the treasurer of such county, or on any other lawful authority, such deposits with interest at per cent (as agreed upon); and will pay such bonds and coupons, as by their terms are made payable at a bank or banks, and for the payment of which a deposit shall be made at such bank by such treasurer with their principal.

Such treasurer shall not be authorized to have on deposit at such bank, at any one time, a sum greater than dollars.

Dated this day of, 189..

.....
.....

(For acknowledgment, justification and approval, see Form No. 48.)

Form No. 48. Section 160.

UNDERTAKING OF COUNTY CLERK.

WHEREAS, was duly elected (or appointed) county clerk of the county of, on the day of, 189..; now, therefore,

We, the said, as principal, and, as sureties, do hereby jointly and severally undertake to and with the county of, that the said will faithfully execute and discharge the duties of county clerk, and account for all moneys deposited with him pursuant to law, or the order of any court, or by his predecessor in office, and pay them over as required by law, or directed by such order.

Dated this day of, 189..

.....
.....
.....

(For acknowledgment, justification and approval, see Form No. 49.)

Form No. 49. Section 161, Subd. 3.

NOTICE OF ELECTION OR APPOINTMENT.

To

Take notice that on the day of, 189.., a certificate of election or appointment was filed in my office, from which it appears that you have been duly elected or appointed of said county.

Dated this day of, 189..

Yours, etc.,

....., County Clerk.

FORMS FOR COUNTY LAW.

Form No. 50. Section 161, Subd. 4.

NOTICE OF COMMISSION OR APPOINTMENT.

To

Take notice that on the day of, 189., a commission or appointment was filed in my office, from which it appears that you have been duly appointed by

Dated this day of, 189..

....., *County Clerk.*

Form No. 51. Section 161, Subd. 4.

NOTICE OF VACANCY.

To the Hon., *Governor of the State of New York.*

Notice is hereby given that by reason of the death (or otherwise) of A. B., a vacancy has occurred in the office of of the county of

Dated this .. . day of 189..

Respectfully,

....., *County Clerk.*

Form No. 52. Section 161, Subd. 4.

NOTICE OF NEGLECT TO FILE, ETC.

To the Hon., *Governor of the State of New York:*

Notice is hereby given that, who has been elected (or appointed) of the county of, has neglected to file, within the time required by law, the constitutional oath of office (or undertaking, where required).

Dated this day of, 189..

Respectfully,

....., *County Clerk.*

Form No. 53. Section 161, Subd. 4.

NOTICE OF QUALIFYING OFFICERS.

To the Hon., *Governor of the State of New York:*

Notice is hereby given, in pursuance of subdivision 4 of section 161 of the county law, that the following persons were elected or appointed to the offices opposite their names, respectively, in the county of, during the year ending with the 31st day of December, 189., who have duly qualified:

NAME.	How chosen.	Office.

Dated this day of, 189..

....., *County Clerk.*

FORMS FOR COUNTY LAW.

Form No. 54. Section 161, Subd. 5.

NOTICE OF CORPORATIONS.

To the Hon., Secretary of State of the State of New York:

Notice is hereby given, in pursuance of subdivision 5 of section 161 of the county law, that the following corporations have filed certificates of incorporation in the office of the county clerk of the county of during the year ending with the 1st day of January, 189..:

NAME OF CORPORATION.	Date of filing certificates.

Dated this day of, 189..

..... *County Clerk.*

Form No. 55. Section 161, Subd. 6.

ACCOUNT OF FEES OF COUNTY CLERK.

PERSONS FOR WHOM RECEIVED.	Nature of service.	Amount of fees.	Time of receiving.

Form No. 56. Section 164.

STATEMENT OF COUNTY CLERK.

To the Board of Supervisors, County of :

I,, clerk of county, hereby submit the following annual report :

Amount of fees charged or received during the year for searches and certificates thereof	\$735 00
Amount of fees charged or received for recording documents and certificates thereof	826 00

FORMS FOR COUNTY LAW.

Amount of sums charged or received for services rendered the county..	\$241 00
Amount of sums charged or received for official services	818 00
	<u>\$2,120 00</u>

Payments.

Sums paid for clerical services to (A. B.).....	\$1,216 00
Sums paid for fuel to (B. C.).....	118 00
Sums paid for lights to (C. D.).....	40 00
† Sums paid for stationery to (E. F.).....	320 00
Sums paid for incidental expenses:	
To G. H. for ().....	68 00
To H. L. for ().....	84 00
	<u>1,796 00.</u>
Balance.....	<u>\$324 00</u>

Dated this day of, 189..

....., *County Clerk.*

STATE OF NEW YORK, } ss.:
COUNTY OF....., }

....., being duly sworn, deposes and says that he is county clerk of the county of....., and that the foregoing statement is true.

Subscribed and sworn to before me, }
this day of, 189.. }

.....,
Notary Public.

Form No. 57. Section 180.

UNDERTAKING OF SHERIFF.

WHEREAS, was duly elected (or appointed) sheriff of the county of, on the..... day of, 189.., now, therefore, we, the said, as principal, and and, as sureties, do hereby jointly and severally undertake to and with the county of, in the sum of dollars, that the said will, in all things, perform and execute the office of sheriff of the county of, during his continuance therein, without fraud or deceit.

.....
.....
.....

(For acknowledgment, justification and approval, see Form No. 43.)

Said undertaking to be approved by the county clerk upon due examination of the sureties by him.

Form No. 58. Section 200.

UNDERTAKING OF DISTRICT ATTORNEY.

WHEREAS, was duly elected (or appointed) district attorney of the county of, on the..... day of, 189.., now, therefore, we, the said, as principal, and and,

FORMS FOR COUNTY LAW.

... do hereby jointly and severally undertake to and with the county ... that the said ... will faithfully account for and pay ... to law, or as the court may direct, all moneys that may come into ... as such district attorney.

this ... day of ..., 189...

.....
.....
.....

(For acknowledgment, justification and approval, see Form No. 2.)
... to this undertaking must be resident freeholders and the justification should be drawn to that effect.

Form No. 59. Section 201.

REPORT OF DISTRICT ATTORNEY.

... , district attorney, in account with the county of

Or.

... recovered.....	\$400 00	By amount paid county treasurer,, 189.....	\$100 00
.....	100 00	.....	.....
.....	\$300 00	.....	.....

this ... day of ..., 189...

....., *District Attorney.*

OF NEW YORK, }
et al.:
OF.....,

....., being duly sworn, deposes and says, that he is the district ... of the county of, and that the foregoing statement is a ... of all moneys received by him by virtue of his office during the year ... with the ... day of, 189..

... and sworn to before me, }
... day of, 189.. }

.....

Notary Public.

Form No. 60. Section 211.

UNDERTAKING OF SUPERINTENDENT OF POOR.

AS, was duly elected (or appointed) superintendent of the ... county of, on the ... day of, 189 , now, ... we, the said, as principal, and and, ... do hereby jointly and severally undertake, to and with the county of ... , that the said will faithfully discharge the duties of ... as such superintendent of the poor, and pay, according to law, all

FORMS FOR COUNTY LAW.

moneys that shall come into his hands as such superintendent, and render a just and true account thereof to the board of supervisors of the county of

Dated this day of, 189...

.....
.....
.....

(For acknowledgment, justification and approval, see form No. 2.)

Form No. 61. Section 221.

UNDERTAKING OF SURROGATE.

WHEREAS, was duly elected (or appointed) surrogate of the county of, on the day of, 189.., now, therefore, we, the said, as principal, and and, as sureties, do hereby jointly and severally undertake to and with the county of, that the said will faithfully perform his duties as such surrogate, and apply and pay over all moneys and effects that may come into his hands as such surrogate in the execution of his office.

Dated this day of, 189..

.....
.....
.....

(For acknowledgment, justification and approval, see Form No. 2.)

The sureties to this undertaking must be resident freeholders. The justification clause should be drawn accordingly.

INDEX TO COUNTY LAW.

	Section.
against county, board may make additional require-	
ments for	25
n of	24
resentation of	24
on contracts in corporate name	3
confirming proceedings of board of supervisors of Essex	
county, p. 76.	
ting to appointment of keepers of alms-houses, etc., p. 70.	
ting to chief engineer in Kings county, p. 72.	
ting to clerk of Columbia county, p. 73.	
ting to clerk of Monroe county, p. 77.	
ting to clerk of Rensselaer county, p. 75.	
ting to filling vacancies in office of supervisor in Brook-	
lyn, p. 69.	
ting to public driveway, etc., p. 66	
tive to chief engineer, etc., p. 72	
tive to janitor of court-house of Kings county, p. 71.	
onfer further powers upon boards of supervisors, p. 64.	
rovide for uniform term of office for supervisors, etc., p.	
l.	
rovide for improvements, etc., of public roads, etc., p. 59.	
al requirements, board of supervisors may make	25
ment of board of supervisors	29
meetings of committee of board	29
on of boundary, apportionment of debts on	4
disposition of property on	4
tate roads	77
owns	34
report of county officers	232
istrict attorney	201
statement of clerk of board	51
ion of proceeds of tax on dogs	114
ment of coroners	180
ounty clerks	160
ounty judge	220
ounty treasurer	140
istrict attorney	200
heriffs	180

INDEX.

	Section.
Appointment of special county judge.....	220
of special surrogate.....	220
of superintendent of poor	210
of surrogate	220
Apportionment of debts on alteration of boundary	4
of expenses, when a bridge is intersected by town or county lines	65
Appropriation of certain non-resident highway taxes.....	75
state, balance of	76
Article as to duties of board of supervisors relating to highways and bridges, limitation of.....	60
Assessments, correction of	16
Assistant district attorney	202
Balance of state appropriations	76
Banks of deposit, county treasurer to designate.....	143
to give undertaking	144
Board of supervisors	10
adjournment of.....	29
committee of.....	28
distribution of proceedings of	18
examination of witness and officers by	27
further powers of	78
general powers of	12
may authorize a town to construct a bridge outside of bound- ary line.....	67
may authorize towns to borrow money.....	69
may make additional requirements as to account against county.....	25
meeting and organization of.....	10
meetings of.....	29
power as to soldiers' monument.....	38
powers of, how exercised	17
power of, to establish a plan for grade of streets outside of city limits	71
power to issue warrant.....	29
printing of proceedings of	18
rate on taxation on dogs, when not fixed by	111
statements of county clerks to	164
to have charge of county records.....	26
Books and funds, delivery of, by county treasurer to successor...	147
Borrowing money, board may authorize towns	69
Boundary, alteration of, disposition of property on	4

INDEX.

	Section.
Boundary, apportionment of debts on alteration of.....	4
Bridges and highways, county	61
board may authorize town to construct, outside of boundary	
line	67
county aid to towns for the construction and repair of.....	64
destroyed, construction by county of	64
location and construction of.....	62
over county line	68
when intersected by town or county lines, apportionment of	
expenses	65
Business hours in county clerk's office.....	165
Calendars, keepers of jail to present to courts.....	97
Certificate of fence viewers to be evidence	119
Charges, county	230
Children, houses of detention for	101
City limits, streets outside of.....	71
Clerk of board, annual statement of.....	51
forfeiture by.....	54
of supervisors, duties of.....	50
Collector's fees on dog tax.....	115
Commissioners of highways of towns, county's share of expenses	
to be raised and paid to.....	66
Commitments by United States courts.....	96
record of.....	95
Committee by board of supervisors.....	28
of board, adjournment of meetings	29
Compensation for publication.....	21
for publication of election notices and official canvass.....	22
for transcripts or copies of county records.....	26
of county judge.....	222
of public officers in Ulster county.....	231
of supervisors.....	23
of surrogate.....	222
when and how paid.....	223
Concurrent resolutions, publication of.....	20
Confined persons to be discharged if not indicted.....	98
Construction and location of bridges.....	62
and repair of bridges, county aid to towns for.....	64
by county of destroyed bridges.....	64
Contracts in corporate name.....	3
Control and custody of prisoners.....	92

INDEX.

	Section.
Coroners, appointment of.....	180
election of.....	180
term of office of.....	180
when county judge to appoint, to act as sheriff.....	189
when other designation of, to act as sheriff.....	188
when to act as sheriff.....	187
Corporate name, actions and contracts in.....	3
Correction of assessments.....	16
Counsel, employment of, by district attorney.....	204
Counties of more than 300,000 acres of unimproved land, high-ways in.....	74
County aid to towns for the construction and repair of bridges..	63
a municipal corporation.....	2
buildings, location of.....	31
proceedings on petition to locate.....	32
submission of removal of location of.....	33
charges.....	230
how raised.....	232
clerks, appointment of.....	160
deputy.....	162
election of.....	160
general powers and duties of.....	161
office, business hours in.....	165
statement of, to board of supervisors.....	164
term of office of.....	160
undertakings of.....	160
construction by, of destroyed bridges.....	64
form and presentation of accounts against.....	24
highways and bridges.....	61
indebtedness, report of.....	52
jail, keepers of, to present calendars to courts.....	97
persons in, to be discharged if not indicted.....	98
reading matter for.....	94
rooms in.....	91
use of.....	90
judge, appointment of.....	220
compensation of.....	222
election of.....	220
term of office of.....	220
when to appoint coroner to act as county judge.....	189
law, when to take effect.....	239
lines, bridges over.....	68

INDEX.

	Section.
County obligations, limitation of credit for issue of	13
officers, annual report of	233
general provisions relating to	236
or town lines, apportionment of expenses when a bridge is intersected by	65
records, charge of, by board	26
compensation for transcripts or copies of	26
transcripts or copies of	26
share of expenses to be raised and paid to the commissioners of highways of the towns	66
treasurer, appointment of	140
delivery of books and funds by, to successor	147
election of	140
extension of time by, for the collection of taxes	149
general powers and duties of	141
moneys drawn by, for what claims	146
not to be relieved from liability upon designation of depository	145
penalty for neglect to report by	148
term of office of	140
time for making report of, extended	142
to designate banks of deposit	143
undertaking of	140
work-houses	102
Courts, keepers of jail to present calendars to	97
Creation of surrogate	221
Custody of jails by sheriffs	183
Delivery of books and funds by county treasurer to successor	147
Deposit, banks of, to be designated by county treasurer	143
Depository to give undertaking	144
Deputy county clerks	162
duties of	163
sheriffs	182
Description of dog, owner to deliver	113
Designation of justices of sessions	220
of newspapers for publication of session laws	19
Discharge of confined persons if not indicted	98
of prisoner if unable to pay fine	100
Disposition and recovery of moneys	234
of property on alteration of boundary	4
Disputed lines, establishment of	36
Distribution of proceedings of board	18

- District attorney, annual report of
- appointment of
- assistant
- employment of counsel by
- election of
- of Erie county
- term of office of
- undertaking of
- Dog, application of proceeds of tax on
- chasing sheep, to be killed
- duties by town board as to injuries by
- forfeiture of owner for neglect or refusal to deliver de
- tion of
- liability of owners for injuries
- owner of, to kill after notice
- owner of, who deemed
- owner to deliver description of
- payment of tax on, when to be proved
- rate of taxation on, when not fixed by the board
- tax on, how collected
- tax on
- collector's fees
- when justice may order killed
- Duties and powers of county clerks
- of county treasurer
- of fence viewers
- of deputy county clerks
- of boards of supervisors relating to highways and bridges,
- of clerk of supervisors
- of town board as to injuries by dogs
- Election notices, publication of
- of coroners
- of county clerk
- of county judge
- of county treasurer
- of district attorney
- of sheriffs
- of special county judge
- of special surrogate
- of superintendent of poor
- of surrogate
- Electric light taxes, statement of

INDEX.

	Section.
Employment of counsel by district attorney	204
Erection of soldiers' monument	38
of towns	34
Erie county, district attorney of	203
Establishment of disputed lines	36
Examination of witnesses and officers by the board	27
Expenditure and raising of moneys	70
Expenses, apportionment of, when a bridge is intersected by town or county lines ..	65
county's share of, to be raised and paid to commissioners of highways of towns	66
Extension of time by county treasurer for the collection of taxes ..	149
Fees of collector on dog tax	115
of sheriff for service for the state	185
Fence viewers, certificate of, to be evidence	119
duties and powers of	118
Filing an enforcement of undertaking	30
Fine, prisoner to be discharged if unable to pay	100
Fire districts outside of incorporated villages	37
First election in new town	35
Food and labor of prisoners	93
Forfeiture by clerk of board	54
for neglect or refusal of owner to deliver description of dog ..	112
Form of accounts against the county	24
Funds and books, delivery of, by county treasurer to successor ..	147
Further powers of board of supervisors	78
General powers and duties of county clerks	161
of county treasurer	141
of boards of supervisors	12
provisions for appointment of person to act as sheriff ..	190
relating to county officers	236
relating to official bonds	237
relating to undertakings	237
Habeas corpus, suspension of	99
Highways and bridges, county	61
duties of board of supervisors relating to, art. 4.	
in counties of more than 300,000 acres of unimproved land ..	74
survey and records of	72
taxes, non-resident, appropriation of	75
Houses of detention for women, children and witnesses	101
Incorporated villages, fire districts outside of	37
Informal act, legalization of	15

INDEX.

	Section.
Jails, custody of, by sheriffs	183
reading matter for.....	94
rooms in.....	91
use of.....	90
who may visit.....	103
Justices of sessions, designation of.....	220
when may order dog killed.....	125
Keepers of jail to present calendars to courts..	97
Labor and food of prisoners.....	93
Laws repealed.....	238
Legalization of informal act.....	15
Liability of owners of dogs for injuries	117
Limitation of article as to duties of board of supervisors relating	
to highways and bridges.....	60
of credit for issue of county obligations.....	13
for issue of town obligations.....	13
Lines, establishment of disputed.....	36
Location and construction of bridges.....	62
of county buildings.....	31
Meeting and organization of boards of supervisors.....	10
of board of supervisors	29
Moneys, borrowing of, towns may be authorized.....	69
drawn by county treasurer, for what claims.....	146
raising and expenditure of.....	70
recovery and disposition of.....	234
removal of sheriff for non-payment of.....	186
Neglect by county treasurer to report, penalty for.....	148
to perform duty, penalty for.....	11
Newspapers for publication of session laws, designation of.....	19
New town, first election in.....	35
Notice, owner to kill dog after	124
Obligations, resolutions authorizing issue of.....	14
Office of coroners, term of	180
of sheriff.....	184
term of.....	180
term of, of county clerk.....	160
of county judge.....	220
of county treasurer.....	140
of district attorney.....	200
of special county judge	220
of special surrogate.....	220
of superintendent of poor.....	210

INDEX.

	Section.
Office, term of, of surrogate.....	220
Officers, examination of, by the board.....	27
Official bonds, general provisions relating to.....	237
canvass, publication of.....	22
seals.....	235
Orders for sheep killed, tax to pay.....	121
Owners of dogs, liability for injuries.....	117
to deliver description.....	112
who deemed.....	126
of sheep, when to refund.....	122
to kill dog after notice.....	124
Penalty for neglect by county treasurer to report.....	148
for neglect to perform duty.....	11
Petition to locate county buildings, proceedings on.....	32
Persons who may visit jails and work-houses.....	103
Powers and duties of county clerks.....	161
of county treasurer.....	141
of fence viewers.....	118
further, of board of supervisors.....	78
of board of supervisors, how exercised.....	17
Presentation of accounts against the county.....	24
Printing of proceedings of board.....	18
Prisoners, custody and control of.....	92
food and labor of.....	93
to be discharged if unable to pay fine.....	100
Proceedings of board, distribution of.....	18
printing of.....	18
on petition to locate county buildings.....	32
Publication, compensation for... ..	21
of concurrent resolutions.....	20
of election notices.....	22
of official canvass.....	22
of session laws.....	20
designation of newspapers for.....	19
Public officers in Ulster county, compensation of.. ..	231
Railroad taxes, statement of.....	53
Raising and expenditure of moneys.....	70
Rate of taxation on dogs when not fixed by the board.....	111
Reading matter for county jail.....	94
Records and survey of highways.....	72
of commitments.....	95
Recovery and disposition of moneys.....	234

INDEX.

	Section.
Refunding by owner of sheep	122
of illegal taxes.....	16
Regulation of toll rates	73
Removal of location of county buildings, submission of.....	33
of sheriff for non-payment of moneys	186
Repair and construction of bridges, county aid to towns for.....	67
Report of county indebtedness.....	52
of county treasurer, time for making, extended.....	142
Resolutions authorizing issue of obligations.....	14
Returning of illegal taxes.....	16
Roads, state, alteration of.....	77
Rooms in county jail	91
Seals, official.....	235
Session laws, designation of newspapers for publication of.....	19
publication of	20
Sheep, dogs chasing, to be killed.....	123
killed, tax to pay orders for	121
Sheriffs, appointment of	180
custody of jails by.....	183
deputy.....	182
election of.....	180
fees of, for service of the state.....	185
general provisions for appointment of person to act as.....	190
offices.....	184
removal of, for non-payment of moneys.....	186
term of office of.....	180
under.....	181
undertakings of.....	180
when coroner to act as.....	187
when county judge to appoint coroner to act as.....	189
when other designation of coroner to act as	188
Short title.....	1
Soldiers' monument, erection of	38
Special county judge, appointment of.....	220
election of.....	220
term of office of.....	220
surrogate, appointment of.....	220
election of.....	220
term of office of.....	220
State appropriations, balance of.....	76
roads, alteration of.....	77
Statement, annual, of clerk of board.....	51

INDEX.

	Section.
Statement by county clerk to board of supervisors	164
of railroad, telegraph, telephone and electric light taxes....	53
Streets outside of city limits, power of board over.....	71
Submission of removal of location of county buildings.....	33
Superintendent of poor, appointment of.....	210
election of.....	210
term of office of.....	210
undertaking of.....	211
Supervisors, boards of... ..	10
compensation of	23
Survey and records of highways	72
Surrogate, appointment of.....	220
compensation of	222
creation of	221
election of.....	220
term of office of.....	220
undertaking of	221
Suspension of habeas corpus.....	99
Tax on dogs.....	110
application of proceeds of	114
how collected.....	113
payment of, when to be proved	116
to pay orders for sheep killed.....	121
Taxes, collection of, extension of time for.....	149
non-resident highway, appropriation of	75
refunding of illegal	16
returning of illegal.....	16
statement of railroad, telegraph, telephone and electric light.	53
Telegraph taxes, statement of.....	53
Telephone taxes, statement of	53
Term of office of coroners	180
county clerks.....	160
judge	220
treasurer	140
district attorney	200
sheriffs	180
special county judge	220
surrogate	220
superintendent of poor	210
surrogate	220
Time for making report of county treasurer extended	142
Toll rates, regulation of	73

INDEX.

	Section.
Town board, duties of, as to injuries by dogs.....	120
may be authorized to construct a bridge outside of boundary line	67
new, first election in	35
obligations, limitation of credit for issue of.....	13
or county lines, apportionment of expenses when a bridge is intersected by	65
Towns, alteration of.....	34
board may authorize to borrow money.....	69
county aid to, for the construction and repair of bridges....	63
county's share of expenses to be raised and paid to commis- sioners of highways of	66
erection of.....	34
Transcripts or copies of county records	26
Ulster county, compensation of public officers in	231
Under sheriffs	181
Undertaking, filing and enforcement of	30
general provisions relating to.....	237
of county clerks	160
treasurer	140
district attorney	200
party arrested on warrant of board	30
sheriffs	180
superintendent of poor.....	211
surrogate	221
to be given by banks of deposit or depository.....	144
United States courts, commitments by.....	96
Use of county jails.....	90
Villages incorporated, fire districts outside of.....	37
Warrant issued by a board of supervisors	29
When coroner to act as sheriff	187
county judge to appoint coroner to act as sheriff	189
justice may order dog killed.....	125
other designation of coroner to act as sheriff	188
owner of sheep shall refund	122
payment of dog tax to be proved	116
Who deemed owner of dog	126
Witnesses, examination of, by the board	27
houses of detention for	101
Women, houses of detention for	101
Work-houses, county	103
who may visit	103

THE TOWN LAW.

BEING CHAPTER 569 OF THE LAWS OF 1890, AS AMENDED BY CHAP.
254 OF THE LAWS OF 1891, AND BY CHAPS. 61, 92,
AND 252 OF THE LAWS OF 1892.

AN ACT in relation to towns, constituting chapter twenty of the
general laws.

CHAPTER XX OF THE GENERAL LAWS.

THE TOWN LAW.

ARTICLE 1. Towns as corporations (§§ 1-5).

2. Town meetings and the election and tenure of town officers (§§ 10-39).
3. Qualifications of town officers (§§ 50-67).
4. General duties of town officers (§§ 80-86).
5. Division fences (§§ 100-108).
6. Strays and chattels doing damage, floating timbers and wrecks (§§ 120-150).
7. The town board (§§ 160-188).
8. Town-houses, lock-ups and burial grounds (§§ 190-195).
9. The municipal debt law (§§ 210-214).
10. Town business in counties containing more than three hundred thousand inhabitants (§§ 220-233).
11. Repealing and other clauses (§§ 240-249).

ARTICLE I.

TOWNS AS CORPORATIONS.

SECTION 1. Short title.

2. Town, a municipal corporation.
3. Disposition of town property, upon alteration of town boundaries.
4. Apportionment of debts.
5. Meetings of town boards, in two or more towns.

SECTION 1. Short title.—This chapter shall be known as the town law.

§ 2. Town, a municipal corporation.—A town is a municipal corporation comprising the inhabitants within its boundaries, and formed for the purpose of exercising such powers and discharging such duties of local government and administration of public affairs as have been, or may be conferred or imposed upon it by law

§ 3. Disposition of town property, upon alteration of town boundaries.—When the boundaries of a town owning real or personal property shall be altered, either by a division of a town into two or more towns or by the annexation of a part of its territory to another town or towns, the town boards of the several towns affected by such alterations shall meet as soon as may be after the first town meetings subsequently held in such towns, and shall make such agree-

ment concerning the disposition to be made of such real and personal property, and the apportionment of the proceeds, as they shall deem equitable, and take all measures, and execute all conveyances necessary to carry such agreement into effect. If no such agreement shall be made within six months after such town meetings, the town board of each town in which any portion of such real property, or in whose possession any of such personal property shall be, shall, as soon as may be, sell and convey such part of the real property as shall be included within the limits of the town as fixed by such alteration, and such of the personal property as may be in its possession; and the proceeds arising from the sale shall be apportioned between the several towns interested therein, by the town boards of all the towns, according to the amount of the taxable property of the town divided or altered, as the same existed immediately before such division or alteration, to be ascertained by the last assessment-roll of such town. But no town cemetery or burial-ground shall be sold or divided, but the same shall belong to the town within which it may be situated after a division of the town shall have been made, and no lots heretofore granted by the people of this state to any town for the support of the gospel and of schools, commonly called the gospel and school lots, shall be so sold or apportioned.

§ 4. **Apportionment of debts.**—Debts owed by a town, so divided or altered shall be apportioned in the same manner as the personal property of a town, and each town shall be charged with its share of the debts, according to the apportionment and the amount of the unpaid taxes levied and assessed upon the taxable property of the town, divided or altered, before the division or alteration thereof, shall be apportioned between the several towns interested therein, according to the amount of taxable property in each town as the same existed before such division or alteration, to be ascertained by the last assessment-roll of the town. In making such division, there shall be set off to each town interested the unpaid taxes assessed and levied upon the real property within its borders and such as were assessed and levied upon personal property against persons or corporations, as resided within its borders at the time of the assessment; and each town, to which the same are apportioned, shall have the same power, right and methods of collecting the same by warrant, action, sale or otherwise, as the town so divided or altered had, or would have had if such town had not been so divided or altered. Any such town having apportioned to it more than its proportion of unpaid taxes, according to the aforesaid taxable property, to be ascertained by the last assessment-roll of such town, shall pay to the other town or towns interested, such sum or sums as shall be necessary to make such apportionment correspond with the said taxable property, as ascertained by the said last assessment-roll of said town, before the said division or alteration.

Am'd by ch. 459 of 1896. In effect May 9, 1896.

§ 5. **Meetings of town boards of two or more towns.**—Whenever a meeting of the town boards of two or more towns shall be required, in order to carry into effect the provisions of this article, such meeting may be called by either of the supervisors of such towns, by giving at least three days' written notice to all the other members of such town boards of the time and place of such meeting. Whenever said town boards shall fail to carry into effect the provisions of this article and agree upon the amount of assets to which each town is entitled, and the amount of indebtedness for which each town is liable and complete the full settlement thereof, within eighteen months after the division or alteration mentioned in section three of this article, any of such towns may begin and maintain an action against the other town or towns to make and enforce such settlement. The provisions of this article shall apply to towns heretofore and hereafter divided or altered.

Am'd by ch. 459 of 1896. In effect May 9, 1896.

ARTICLE II.

TOWN MEETINGS, AND THE ELECTION AND TENURE OF TOWN OFFICERS.

- SECTION 10. Time and place of annual town meeting.
11. Changing place of annual town meeting.
 12. Election of officers.
 13. Term of office.
 14. Justices of the peace.
 15. Assessors.
 16. Commissioners of excise.
 17. Commissioners of highways.
 18. Overseers of the poor.
 19. Inspectors of election.
 20. Ballots for full term and vacancies.
 21. Justices in new towns.
 22. When more than four justices may hold office.
 23. Fence viewers.
 24. Powers of annual town meetings.
 25. Special town meetings.
 26. Notice of town meetings.
 27. Presiding officers of town meeting.
 28. Clerk of meeting.
 29. Duration of town meeting.
 30. Challenges.
 31. Minutes of proceedings.
 32. Transaction of business not requiring a ballot.
 33. Votes to expend over five hundred dollars.
 34. Notice of propositions to be determined by ballot.
 35. Proclamation of opening and closing polls.
 36. Erection or discontinuance of pounds.
 37. Election of pound-masters.
 38. Balloting.
 39. Canvass of votes.
 40. Town meetings in election districts.
 41. Transaction of business in separate election districts not requiring a ballot.
 42. The use of Myers' automatic ballot cabinet at town meetings.
 43. Special constables.

[Thus amended by L. 1892, chap. 252.]

§ 10. Time and place of annual town meeting.—The electors of a town, except in counties containing upwards of six hundred thousand inhabitants shall annually on the second Tuesday of February, assemble and hold town meetings at such place in the town as the electors thereof at their annual town meeting shall, from time to time, appoint. If no place shall have been fixed for such meeting, the same shall be held at the place of the last annual town meeting in

the town or election district, when town meetings of a town are held in election districts. The board of supervisors of any county may, by resolution adopted at an annual meeting of such board, fix a time when the annual town meetings in such county shall be held, which shall be on some day between the first day of February and the first day of May, inclusive, and such time, when so fixed, shall not be changed for the period of three years. The annual town meetings in the towns in each county containing more than three hundred thousand and less than six hundred thousand inhabitants, according to the then last preceding state or federal enumeration, shall be held on the second Tuesday of March, eighteen hundred and ninety-two, and annually thereafter on the second Tuesday of March until otherwise directed by the board of supervisors of such county. At each such town meeting, in the year eighteen hundred and ninety-two, there shall be elected justices of the peace and such other town officers as are now required by law to be elected whether by expiration of term or otherwise, and the successors of those town officers respectively who were elected at the general election in eighteen hundred and ninety-one, and whose terms may expire at or before the town meeting of eighteen hundred and ninety-three. But nothing herein contained shall be so construed as to abridge or extend the terms of any of the town officers who were elected or appointed at the general election in the year eighteen hundred and ninety-one, but their terms of office shall continue until the expiration of the term for which such officers were elected or appointed, and at the expiration thereof their successors elected or appointed pursuant to this act, as hereby amended, shall enter upon the discharge of their duties and serve until the expiration of the term for which they shall have been severally elected or appointed and until their successors are elected and qualified.

Am'd by chap. 82 of 1893.

§ 11. Changing place of annual town meeting.—The electors of a town may, upon the application of fifteen electors therein, to be filed with the town clerk twenty days before an annual town meeting is to be held, determine at such meeting, by ballot, where future town meetings shall be held. Where town meetings in any town are held in separate election districts, the electors of each district may, at an annual town meeting, determine by resolution where its future town meetings shall be held. If any place so designated shall thereafter and before the close of the next annual town meeting be destroyed, or for any reason become unfit for use, or cannot for any reason be used for such purpose, the town board shall forthwith designate some other suitable place for holding such town meeting in said town or election district as the case may be.

Am'd by chap. 23 of 1893.

§ 12. **Election of officers.**—There shall be elected at the annual town meeting in each town, by ballot, one justice of the peace, one assessor, one collector, one commissioner of excise, one or two overseers of the poor, except in the counties of Richmond and Kings, one, two or three commissioners of highways, not more than five constables, and two inspectors of election for each election district in the town; and at each alternate annual town meeting, one supervisor and one town clerk, except in the county of Kings. If there shall be any vacancies in the office of supervisor, town clerk, justice of the peace, assessor, commissioners of excise, commissioners of highways, or overseers of the poor, of any town at the time of holding its annual town meeting, persons shall then also be chosen to fill such vacancies, who shall hold their offices for the residue of the unexpired term for which they are respectively elected. All such officers, except justice of the peace, shall hold their respective offices until others are elected in their place and have qualified.

Am'd by chap. 344 of 1893.

§ 13. **Term of office.**—Inspectors of election and constables, when elected, shall hold their respective offices for one year, and supervisors and town clerks for two years, except in the county of Kings. But whenever there is or shall be a change in the time of holding town meetings in any town, persons elected to such offices at the next annual town meeting after such change shall take effect, shall enter upon the discharge of their duties at the expiration of the term of their predecessors, and serve until the next annual town meeting thereafter or until their successors are elected and have qualified.

Am'd by chap. 344 of 1893.

§ 14. **Justices of the peace.**—There shall be four justices of the peace in each town, divided into four classes, one of whom shall be annually elected and hold his office four years, commencing on the first day of January next succeeding his election.

§ 15. **Assessors.**—There shall be three assessors in each town, divided into three classes, each of whom shall hold his office three years.

§ 16. **Commissioners of excise.**—There shall be three commissioners of excise in each town, composing the board of excise of such town, who shall be divided into three classes, each of whom shall hold his office three years. No supervisor, town clerk, justice of the peace or trustee of a village shall be a commissioner of excise.

§ 17. **Commissioners of highways.**—The electors of each town may, at their annual town meetings, determine by ballot whether there shall be elected in their town one or three commissioners of highways. If only one shall be determined upon, and it shall be a town having but one commissioner of highways, one commissioner only shall thereafter be elected at each alternate annual town meeting, who shall hold his office for two years. If three shall be determined upon, three commissioners of highways shall then be elected for the terms of one, two or three years respectively; and the person having the greatest number of votes for each term so designated shall be deemed duly elected, and shall hold office for the term so designated, and one commissioner only for a full term shall thereafter annually be elected, who shall hold his office for three years. Whenever any town shall have determined

upon having three commissioners of highways and shall desire to have but one, the electors thereof may do so by a vote by ballot taken at an annual town meeting, and when such proposition shall have been adopted no other commissioner shall be elected or appointed until the term or terms of those in office at the time of adopting the proposition shall expire or become vacant; and they may act until their terms shall severally expire or become vacant as fully as if three continued in office. When there shall be but one commissioner of highways in any town, he shall possess all the powers and discharge all the duties of commissioners of highways as prescribed by law.

Am'd by chap. 344 of 1893 and by chap. 239 of 1895. Took effect April 4, 1895.

§ 18. **Overseers of the poor.**—The electors of each town may, at their annual town meeting, determine by resolution whether they will elect one or two overseers of the poor, and the number so determined upon shall be the number to be elected. If only one be determined upon, one overseer of the poor shall thereafter be annually elected, who shall hold his office for one year. If two overseers of the poor are determined upon, then two overseers of the poor shall be elected for the terms of one and two years respectively; and each ballot shall designate the person intended for the term of one year, and the person intended for the term of two years, and the person having the greatest number of votes for each term so designated shall be duly elected for the term so designated; and one overseer of the poor only, for the full term, shall thereafter annually be elected, for the term of two years. Whenever any town shall have determined upon having two overseers of the poor, the electors thereof may determine by a resolution at an annual town meeting, to thereafter have but one, and if they so determine, thereafter no other overseer shall be elected or appointed, until the term of the overseer continuing in office at the time of adopting the resolution shall expire or become vacant, and the overseer in office may continue to act until his term shall expire or become vacant. The electors of any town may, at any annual or regularly called special town meeting, on the application of at least twenty-five resident taxpayers whose names appear upon the then last preceding town assessment-roll, adopt by ballot a resolution that there shall be appointed in and for such town one overseer of the poor. If a majority of the ballots so cast shall be in favor of appointing an overseer of the poor, no overseer of the poor shall thereafter be elected in such town except as hereinafter provided; and the overseers of the poor of such town elected at the town meeting at which such resolution is adopted or who shall then be in office shall continue to hold office for the terms for which they were respectively chosen; and within thirty days before the expiration of the term of office of such elected overseer whose term expires latest, the town board of such town shall meet and appoint one overseer of the poor for such town who shall hold office for one year from the first day of May next after his appointment; and annually in the month of April in each year thereafter an overseer of the poor shall be appointed by the town board of such town for the term of one year from the first day of May next following such month of April. Each overseer of the poor so appointed shall execute and file with the town clerk an official undertaking in such form and for such sum as the town board may by resolution require and approve. An overseer of the poor, so appointed, shall not hold any other town office during the term for which he is so appointed, and if he shall accept an election or appointment to any other town office he shall immediately cease to be overseer of the poor. If a vacancy shall occur in the office of an overseer of the poor, so appointed, such vacancy shall be filled by the town board, by appointment, for the balance of the unexpired term. The compensation of an overseer of the poor, so appointed, shall be fixed by the town board of such town, but shall not exceed, in any one year, the sum of one thousand dollars, and shall be a town charge. At any subsequent town meeting after the expiration of three years from the adoption of a resolution by any town to appoint an overseer of the poor, the electors of the town may determine by ballot to thereafter elect one or more overseers of the poor, and if they determine so to elect, then at the next annual town meeting thereafter one or more overseers of the poor shall be elected in pursuance of the laws regulating the election of overseers of the poor, and the term or terms of the overseer or overseers first so elected shall commence upon

the expiration of the term of office of the overseer of the poor last theretofore appointed in pursuance of law, and shall expire as though each such term commenced at the time of election; and their successors shall thereafter be elected in pursuance of law.

Am'd by chap. 107 of 1894. Took effect March 28, 1894.

§ 19. **Inspectors for towns.**—The presiding officer of each annual town meeting shall, immediately after the votes are canvassed, appoint by writing, two additional inspectors of election for each election district, to be associated with the two inspectors who shall have been elected, and which inspectors, so to be appointed, shall be those two persons in each election district who shall have received the highest number of votes next to the two persons who shall have been elected inspectors, and which inspectors, so to be appointed, shall belong to and be of the same political faith and opinion on state and national issues as one or the other of the two political parties which, at the last preceding general election for state officers, shall have cast the greatest and next to the greatest number of votes in said town, but they shall not belong to the same political party nor be of the same political faith and opinion on state and national issues as the inspectors who shall have been elected. If the two inspectors elected belong to different political parties, the inspectors appointed shall be the two candidates for inspectors not elected and receiving the highest and next to the highest number of votes respectively, and belonging to different political parties. No ballot shall be counted upon which more than two names for inspector for any one election district shall appear. The various election inspectors elected, or elected and appointed, for towns, under the provision of existing laws, shall continue to serve as such inspectors until January first, eighteen hundred and ninety-five. On or before the second Tuesday in September next the several election inspectors in the various towns, appointed under the provisions of existing laws, shall each appoint one additional election inspector, who shall serve with the other three election inspectors during their term of office; such appointment shall be made in writing and filed in the office of the town clerk. Such additional inspector shall belong to and be of the same political faith on state and national issues as the political party which at the last preceding town meeting shall have cast next to the highest number of votes, and when possible shall be one of the persons who, at the said town meeting, received next to the highest number of votes for election inspector. The additional inspector so appointed shall be subject to the provisions of existing laws, and of this act.

Am'd by chap. 348 of 1894. Took effect July 1, 1894.

§ 20. **Ballots for full term and vacancies.**—When the electors of any town are entitled to vote for more than one justice of the peace, assessor, commissioner of excise, commissioner of highways or overseer of the poor, each elector may designate upon his ballot the person intended for a full term and for a vacancy, and if there are two vacancies, they may be designated as the longer and the shorter vacancy; and if three vacancies, the longer, shorter and shortest vacancy, and each person having the greatest number of votes with reference to each designation, shall be deemed duly elected for the term or vacancy designated. If ballots are voted without designation, the first name on the ballot shall be deemed as intended for the full term of the office voted for, the second name for the longer vacancy, the third name for the shorter vacancy and the fourth name for the shortest vacancy. The provisions of this section shall apply to new towns erected; and officers to be elected in such towns, except for a full term, shall be deemed elected to fill vacancies.

§ 21. **Justices in new towns.**—If there be one or more justices of the peace residing in a new town, when erected, they shall be deemed justices of the peace thereof, and shall hold their offices according to their respective classes; and only so many shall be elected as shall be necessary to complete the number of four for the town.

§ 22. **When more than four justices may hold office.**—If by the erection of a new town, or the annexation of a part of one town to another, there shall at any time be more than four justices of the peace residing in any town, they shall hold and exercise their offices in the town in which they reside according to their classes respectively; but on the expiration of the term of office of two or more justices, being in the same class, only one person shall be elected to fill the vacancy in that class. Whenever by the erection

of a new town, or the annexation of a part of one town to another, any town shall be deprived of one or more justices of the peace, by their residence being within the part set off, the inhabitants of such town shall, at its next annual town meeting, supply the vacancy so produced in the classes to which such justices belong.

§ 23. **Fence viewers.**—The assessors and commissioners of highways elected in every town shall, by virtue of their offices, be fence viewers of their town.

§ 24. **Powers of annual town meetings.**—The electors of each town may, at their annual town meeting :

1. Determine what number of constables, not exceeding five, and pound-masters shall be chosen in their town for the then ensuing year ;

2. Elect such town officers as may be required to be chosen ;

3. Direct the prosecution or defense of all actions and proceedings in which their town is interested, and the raising of such sum therefor as they may deem necessary ;

4. Take measures and give directions for the exercise of their corporate powers ;

5. Make provisions and allow rewards for the destruction of noxious weeds and animals, as they may deem necessary, and raise money therefor ;

6. Establish and maintain pounds at such places within their town as may be convenient ;

7. Direct public nuisances in their town, affecting the security of life and health, to be changed, abated or removed, and raise a sum of money sufficient to pay the expense thereof ;

8. Make from time to time such prudential rules and regulations, as they may think proper, for the better improving of all lands owned by their town, in its corporate capacity, whether commons or otherwise ; for maintaining and amending partition or other fences around or within the same, and directing the time and manner of using such land ;

9. Make like rules and regulations for ascertaining the sufficiency of all fences in such town and for impounding animals ; impose such penalties on persons offending against any rule or regulation established by their town, excepting such as relate to the keeping and maintaining of fences, as they may think proper, not exceeding ten dollars for each offense, and apply the same, when recovered, in such manner as they may think most conducive to the interests of their town ;

10. In towns bound to support their own poor, direct such sum to be raised, as they may deem necessary, for such purpose, and to defray any charges that may exist against the overseers of the poor in their town ;

11. Determine any other question lawfully submitted to them ;

Every order or direction, and all rules and regulations made by any town meeting, shall remain in force until the same shall be altered or repealed at some subsequent town meeting.

§ 25. **Special town meetings.**—Special town meetings shall also be held whenever twenty-five taxpayers upon the last town assessment-roll shall, by written application addressed to the town clerk, require a special town meeting to be called, for the purpose of raising money for the support of the poor ; or to vote upon the question of raising and appropriating money for the construction and maintenance of any bridges which the town may be authorized by law to erect or maintain ; or for the purpose of determining in regard to the prosecution or defense of actions, or the raising of money therefor ; or to vote upon any proposition which might have been determined by the electors of the town at the last annual town meeting, but was not acted upon thereat ; or to vote upon or determine any question, proposition or resolution which may lawfully be voted upon or determined at a special town meeting. Special town meetings may also be held upon the like application of the supervisor, commissioners of highways, or overseers of the poor, to determine questions pertaining to their respective duties as such officers, and which the electors of a town have a right to determine. An application and notice heretofore made and given for a special town meeting to be hereafter held for a purpose not heretofore authorized by law, but now authorized by law, shall be as valid and of the same force and effect as if such purpose had been authorized by law at the time of such application and notice.

Am'd by chap. 280 of 1894. Took effect April 11, 1894.

§ 26. **Notices of town meetings.**—No previous notice need be given of the annual town meetings ; but the town clerk shall, at least ten days before the holding of any special town meeting cause notice thereof under his hand, to be posted conspicuously in at least four of the most public places in the town ; which notices shall specify the time, place and purposes of the meeting.

§ 27. **Presiding officers of town meetings.**—The justices of the peace of each town shall attend every town meeting held therein, and such of them as shall be present, shall preside at such meeting, and see that the same is orderly and regularly conducted, and shall have the like authority to preserve order, to enforce obedience and to commit for disorderly conduct, as is possessed by the board of inspectors at a general election. If there be no justice of the peace present at such meeting, then such person as shall be chosen for that purpose by the electors present, shall preside and shall possess the like powers as the justice ; such person appointed

shall take the constitutional oath of office, before entering upon his duties as such presiding officer.

§ 28. **Clerk of meeting.**—The town clerk last before elected or appointed, or, if he be absent, such person as shall be chosen by the electors present, shall be the clerk of the town meeting, and shall keep faithful minutes of its proceedings, in which he shall enter at length every order or direction, and all rules and regulations made by such meeting; such person chosen by the electors present shall take the constitutional oath of office before entering upon his duties as such clerk.

§ 29. **Duration of town meeting.**—Town meetings shall be kept open for the purposes of voting in the day-time only, between the rising and setting of the sun, and, if necessary, may be continued by a vote of the meeting during the next day, and no longer, and be adjourned to another place not more than one-fourth of a mile from the place where it was appointed.

§ 30. **Challenges.**—If any person offering to vote at any town meeting or upon any question arising at such town meeting shall be challenged as unqualified, the presiding officers shall proceed thereupon in the manner prescribed in the general election law when challenges are made, which law, with its penalties, is made applicable thereto, and no person whose vote shall have been received upon such challenge shall be again challenged upon any other question arising at the same town meeting.

§ 31. **Minutes of proceedings.**—The poll-list and minutes of the proceedings of every town meeting, subscribed by the clerk of such meeting, and by the officers presiding, shall be filed in the office of the town clerk within two days after such meeting and there preserved.

§ 32. **Transaction of business not requiring a ballot.**—The business of the towns which requires a vote of the people otherwise than by ballot shall be commenced at twelve o'clock noon of the day of the annual town meeting and completed without adjournment. No question involving the expenditure of money shall be introduced after two o'clock in the afternoon of the same day. All questions upon motion made at town meetings shall be determined by the majority of the electors voting, and the officers presiding at such meeting shall ascertain and declare the result of the votes upon each question.

§ 33. **Votes to expend over five hundred dollars.**—All votes in town meetings upon any proposition to raise or appropriate money

or incur any town liability exceeding five hundred dollars shall be by ballot; if five hundred dollars or less may be viva voce, unless ballot is required by the law authorizing the expenditure.

§ 34. Notice of propositions to be determined by ballot.—

No proposition or other matter than the election of officers, shall be voted upon by ballot at any town meeting, unless the town officers or other persons entitled to demand a vote of the electors of the town thereon, shall, at least twenty days before the town meeting, file with the town clerk a written application, plainly stating the question they desire to have voted upon, and requesting a vote thereon at such town meeting. When town officers, as such, make the application for a vote to raise money for purposes pertaining to their duties, they shall file with their application a statement of their account to date, with the facts and circumstances which, in their opinion, make the appropriation applied for necessary, and their estimation of the sum necessary for the purpose stated, which statement may be examined by any elector of the town, and shall be publicly read by the town clerk at the meeting when and where the vote is taken, at the request of any elector. The town clerk shall, at the expense of his town, give at least ten days' notice, posted conspicuously in at least four of the most public places in town, of any such proposed question, and that a vote will be taken by ballot at the town meeting mentioned. He shall also, at the expense of his town, provide a ballot-box, properly labeled, briefly indicating the question to be voted upon, into which all ballots voted upon the question indicated shall be deposited. He shall also prepare and have at the town meeting a sufficient number of written or printed ballots, both for and against the question to be voted upon, for the use of the electors. The vote shall be canvassed, the result determined and entered upon the minutes of the meeting, the same as votes given for town officers.

§ 35. Proclamation of opening and closing polls.—Before the electors shall proceed to elect any town officer, proclamation shall be made of the opening of the polls, and proclamation shall in like manner be made at each adjournment and of the opening and closing of the polls until the election be ended.

§ 36. Erection or discontinuance of pounds.—Whenever the electors of any town shall determine at an annual town meeting, to erect one or more pounds therein, and whenever a pound shall now be erected in any town, the same shall be kept under the care and direction of a pound-master, to be elected or appointed for that pur-

pose. The electors of any town may, at annual town meeting, discontinue any pounds therein.

§ 37. Election of pound-masters. — Pound-masters may be elected either (1) by ballot; (2) by ayes and noes, or (3) by the rising or dividing of the electors, as the electors may determine.

§ 38. Balloting. — When the electors vote by ballot, all the officers voted for, except commissioners of excise, shall be named in one ballot, which shall contain written or printed, or partly written and partly printed, the names of the persons voted for, and the offices to which such persons are intended to be elected, and shall be delivered to the presiding officers so folded as to conceal the contents, and shall be deposited by such officers in a box, to be constructed, kept and disposed of, as near as may be, in the manner prescribed in the general election law. Commissioners of excise shall be voted for upon a separate ballot, which shall be deposited in a separate box marked "excise." When any town shall have within its limits an incorporated village, constituting a separate road district, exempt from the supervision and control of the commissioners of highways of the town, and from payment of any tax for the salary or fees of said commissioners, and from payment of any tax for the opening, erection, maintenance and repair of any highway or bridge of said town, without the limits of said village, no residents of such village shall vote at any annual or special election in such town for any commissioner of highways for said town, nor for or against any appropriation for the opening, laying out, maintenance, erection or repair, of any highway or bridge in said town without the limits of said village. At the annual elections in such towns, the names of candidates for the office of highway commissioner shall be printed on a different ballot from the one containing the names of candidates for other town offices. Such ballots shall be indorsed "commissioner of highways," and shall be deposited, when voted, in a separate ballot-box, which also shall be marked "commissioner of highways." Such ballots and ballot-box shall be furnished by the officers now charged by law with that duty at town elections. A poll-list shall be kept by the clerk of the meeting on which shall be entered the name of each person voting by ballot.

Am'd by chap. 262 of 1895. Took effect April 8, 1895.

§ 39. Canvass of votes. — At the close of the polls at any town meeting, the canvassers shall proceed to canvass the votes publicly at the place where the meeting was held. Before the ballots are opened they shall be counted and compared with the poll-list, and the like proceedings shall be had as to ballots folded together, and difference in number as are prescribed in the general election law. The result of the canvass shall be read by the clerk to the persons there assembled, which shall be notice of the election to all voters upon the poll-list. The clerk shall also enter the result at length in the minutes of the proceedings of the meeting kept by him, and shall, within ten days thereafter, transmit to any person elected to a town office, whose name is not on the poll-list as a voter, a notice of his election.

§ 40. Town meetings in election districts. — The electors of a town may determine by ballot at an annual or special town meeting on the written application of twenty-five electors, that town meetings shall thereafter be held in the several election districts of their town, to be therein conducted by the inspectors of election thereof, instead of the justices of the peace of the town; or may authorize the town board to divide such town into two or more joint election districts, as provided in this section. The town board of any town which has been so authorized may divide such town into two or more joint election districts, for the purpose of holding town meetings therein, but such districts shall be constituted by combining the election districts in such town. If the town board of any town shall divide such town into joint election districts in pursuance of this section, such board shall select from the inspectors of election for such town three in-

spectors residing therein, not more than two of whom shall belong to the same political party, for each of such election districts as so constituted. Such inspectors shall act at the first town meeting held in such districts thereafter. At the first town meeting held in such districts and annually thereafter, there shall be elected in each of such districts in the same manner, and with the same qualifications as inspectors are elected for a general election, three inspectors of election for such district. If a town shall hold its town meeting in more than one district, the inspectors of each of such districts shall appoint one poll clerk, and in the conduct of such meetings they shall have the same powers and duties as the justices of the peace and town clerk have at the annual town meetings presided over by them. No town officer shall be required to make or render any report, statement or abstract at a town meeting when held in separate or joint election districts. At the close of the polls, the inspectors shall forthwith publicly canvass the ballot cast, and, without postponement or adjournment, make a full and true statement of the whole number so cast for each and every candidate for an office balloted for, and of the whole number of votes for and against every question or proposition voted upon at such town meeting; and thereupon immediately destroy the ballots cast. Such statement shall be made in the same form as statements by such inspectors of the votes cast at general elections, and shall be signed by the inspectors and delivered by one of their number, selected by them, for that purpose, to the justices of the peace and town clerk of the town, who shall convene and receive the same at the office of the town clerk, on the day next following the town meeting, at ten o'clock in the forenoon. Such justices and clerk shall then and there recanvass such votes from the statements of the inspectors of the several separate or joint election districts so delivered to them, and thereupon appoint in writing additional inspectors of election, and read and enter the result in the same manner as required of them at the close of the canvass of a town meeting presided over by them. When the electors of a town have determined to hold their town meetings in separate or joint districts, they may again, upon the written application of twenty five electors, at an annual town meeting, determine by ballot to return to the former system of holding but one poll at their town meetings, and thereupon their town meetings shall be held at but one polling place in said town, but such changes shall not be made oftener than once in five years.

Added by chap. 82 of 1898, and am'd by chap. 456 of 1893.

§ 41. Transaction of business in separate election districts not requiring a ballot.—Any proposition to be submitted to and voted upon by the electors of a town at any town meeting, which is not required to be voted upon by ballot, may be submitted to the electors of the town voting in separate or joint election districts of the town meeting, but the vote upon any such proposition shall be taken by a division of the electors present and voting thereon; and the inspectors shall count the number of electors so voting in favor of such proposition, and the number so voting against the same, and shall enter in the statement of the result of the town meeting held in such district a statement of the proposition so voted upon, and the number of votes so cast in favor of and against the same and certify with the statement that they are required to certify and return to the justices of the peace and town clerk of the town. No such proposition shall be so voted upon unless notice that such vote will be taken has been published by the town

clerk at least one week before the town meeting, in a newspaper published in the town, if any such is published therein, and such notice shall also be posted for the same length of time at the place where the poll of the town meeting is to be held, in each separate or joint election district, and shall be publicly read by the inspectors to the voters present before any such vote is taken. Any elector of the town may, by a written application filed with the town clerk at least ten days before the town meeting is to be held, require such notice to be given by the town clerk. Every such proposition shall be submitted to a vote, commencing at the hour of twelve, noon, and continuing until all such propositions have been voted upon, and every such proposition shall be submitted to the vote of the electors of the town at the poll of every separate or joint election district in the town.

Added by chap. 82 of 1893, and am'd by chap. 456 of 1893.

§ 42. **The use of Myers' automatic ballot cabinet at town meetings.**—Any town may, by a majority vote of the town board, at a meeting thereof, held not less than ten days before the time the annual town meeting thereof is to be held, determine upon, purchase and order the use of one or more of Myers' automatic ballot cabinets at elections of town officers in such town. Until otherwise determined by such town board, such ballot cabinets shall be used for the purpose of voting for the officers to be elected at such election, and for registering and counting the ballots cast thereat. The ballot by which the elector votes in such Myers' automatic ballot cabinet shall be secret, and shall be a card board or a paper ticket, which shall contain written or printed, or partly written or printed, the names of the persons for whom the elector intends to vote, and shall designate the office to which each person so named is intended by him to be voted for, and shall not contain any other printed or written device or distinguishing mark, except a heading or caption of its political or party designation, of not exceeding five words, and may be of different colors and contain index hands pointing towards the knobs by which the elector counts and registers his ballot. The town board may make regulations for the use of such ballot cabinets, but such regulations shall require all actions and proceedings of the election officers to be in public and in the presence of watchers who may be appointed by the different political parties or candidates thereof, and shall not be inconsistent with law further than may be necessary by reason of the use of such ballot cabinets for the purpose of holding elections, counting and canvassing the ballots thereof. At the close of the polls at such election at which such ballot cabinet shall be used, the canvassers shall proceed to ascertain publicly the total number of ballots cast for each candidate for each office, as registered and declared by such ballot cabinet register, and such ascertainment of the result shall be deemed to be the canvassing of the votes cast at such election.

Am'd by chap. 82 of 1893.

§ 43. **Special constables.**—The supervisor and two justices of the peace of any town may, when in their judgment necessary for the preservation of the public peace during any period of three days or less, appoint five or less special constables of such town for such period. Duplicate certificates of the appointment, signed by such supervisor and such justices of the peace as such, shall be delivered to each of such special constables, specifying the days for which he is so appointed, and one of such duplicates shall be by such special constables filed with the town clerk of said town. The supervisor of such town shall cause to be provided and furnished to each of such special constables a badge on which shall be plainly printed

the words "special constable," which shall be worn conspicuously by each of such special constables while serving as such, and be delivered by him on the completion of his service to the supervisor of such town, who shall preserve the same for future use and deliver the same to his successor in office, who shall preserve the same when not in use. Each of such special constables, while in office as such, shall be a peace officer, and have all the powers and be subject to all the duties and liabilities of a constable of such town in all criminal actions and proceedings and special proceedings of a criminal nature, and shall be entitled to receive compensation from the town at the rate of two dollars per day during his term of office. [*This section added by L. 1892, chap. 252.*]

ARTICLE III.

QUALIFICATION OF TOWN OFFICERS.

SECTION 50. Eligibility to town offices.

51. Oath of office.
52. Collectors' undertaking.
53. Filing and lien of collectors' undertaking.
54. Constables' undertaking.
55. Refusal to serve as overseer of highways or poundmaster.
56. Town officers to administer oaths.
57. Certificate of election of justices.
58. Justices' undertakings.
59. Official acts legalized.
60. Supervisors' undertaking.
61. Undertaking of commissioner of excise
62. Undertaking of overseer of the poor.
63. Undertaking of commissioner of highways
64. Resignation of town officers.
65. Filling of vacancies.
66. Form of undertaking, and liability thereon.
67. County clerk to report omissions of town officers.

§ 50. **Eligibility to town offices.**—Every elector of the town shall be eligible to any town office, except inspectors of election shall also be able to read or write. But no county treasurer, superintendent of the poor, school commissioner, trustee of a school district, or United States loan commissioner, shall be eligible to the office of supervisor of any town or ward in this state.

§ 51. **Oath of office.**—Every person elected or appointed to any town office, except justice of the peace, shall before he enters on the duties of his office, and within ten days after he shall be notified of

his election or appointment, take and subscribe before some officer authorized by law to administer oaths in his county, the constitutional oath of office, and such other oath as may be required by law, which shall be administered and certified by the officer taking the same without reward, and shall within eight days be filed in the office of the town clerk, which shall be deemed an acceptance of the office ; and a neglect or omission to take and file such oath, or a neglect to execute and file, within the time required by law, any official bond or undertaking, shall be deemed a refusal to serve, and the office may be filled as in case of vacancy.

§ 52. **Collector's undertaking.**—Every person elected or appointed to the office of collector, before he enters upon the duties of his office, and within eight days after he receives notice of the amount of taxes to be collected by him, shall execute an undertaking with two or more sureties, to be approved by the supervisor, to the effect that he will well and faithfully execute his duties as collector, pay over all moneys received by him, and account in the manner and within the time provided by law for all taxes upon the assessment-roll of his town delivered to him for the ensuing year, and shall deliver such undertaking to the supervisor of the town.

§ 53. **Filing and lien of collector's undertaking.**—The supervisor shall, within six days thereafter, file the undertaking, with his approval indorsed thereon, in the office of the county clerk, who shall make an entry thereof, in a book to be provided for the purpose, in the same manner as judgments are entered of record ; and every such undertaking shall be a lien on all the real estate held jointly or severally by the collector or his sureties within the county, at the time of the filing thereof, and shall continue to be such lien, until its condition, together with all costs and charges which may accrue by the prosecution thereof, shall be duly satisfied.

§ 54. **Constable's undertakings.**—Every person elected or appointed to the office of constable shall, before he enters on the duties of his office, and within ten days after he shall be notified of his election or appointment, execute in the presence of the supervisor or town clerk of the town, with at least two sufficient sureties, to be approved by such supervisor or town clerk, an undertaking to the effect that such constable and his sureties will pay to each and every person, who may be entitled thereto, all such sums of money as the constable may become liable to pay on account of any execution which shall be delivered to him for collection ; and also pay each and every person for any damages which he may sustain from or by

any act or thing done by such constable by virtue of his office. The supervisor or town clerk shall indorse on the undertaking his approval of the sureties therein named, and shall cause the same to be filed in the office of the town clerk within ten days thereafter.

§ 55. Refusal to serve as overseer of highways or pound-master.—If any person chosen or appointed to the office of overseer of highways or pound-master shall refuse to serve, he shall forfeit to the town the sum of ten dollars.

§ 56. Town officers to administer oaths.—Any town officer may administer any necessary oath in any matter or proceeding lawfully before him, or to any paper to be filed with him as such officer.

57. Certificate of election of justices.—The clerk of every town meeting, at which an election for justice of the peace shall have been had, shall, within ten days thereafter, transmit to the clerk of his county a certificate of the result of such election under his hand, which shall be presumptive evidence of the facts therein certified.

§ 58. Justices' undertakings.—Every justice of the peace elected or appointed in any of the towns or cities of this state, except the city of New York, and any city whose charter requires such officer to give a bond or undertaking, shall, before he enters upon the duties of his office, execute an undertaking with two sureties to be approved by the supervisor of the town, or the town clerk thereof where the justice of the peace is also supervisor of the town, or the common council of the city in which the justice shall reside, to the effect that he will pay over on demand, to the officer, person or persons entitled to the same, all moneys received by him by virtue of his office, and file the undertaking in the office of the clerk of the city or town in which he resides. Every justice shall also, on or before the fifteenth day of January next succeeding his election, file with the county clerk a certificate of the clerk of the city or town in which he resides, that he has filed such undertaking, and thereupon take before the county clerk his oath of office; but, if elected or appointed to fill a vacancy, at the time existing or in any new town, he shall file such undertaking and certificate and take the oath of office, and enter upon the duties thereof, within fifteen days after notice of his election or appointment. No justice of the peace shall take his oath of office until he shall have filed such certificate with the county clerk.

§ 59. Official acts legalized.—The official acts heretofore done of every justice of the peace, duly elected or appointed to the office,

so far as such official acts may be affected, impaired or questioned, by reason of the failure of any such justice to take and subscribe the official oath, or give an official bond as required by law, are hereby legalized, ratified and confirmed, and any justice of the peace heretofore elected or appointed to the office who has neglected to file an official bond within the time prescribed by law, may file an undertaking as herein required, within sixty days from and after the passage of this act, and the same shall have all the force, effect and validity as if the bond had been filed within the time required by law. Nothing herein contained shall affect any action or proceeding now pending.

§ 60. Supervisors' undertaking.—Every supervisor hereafter elected or appointed shall, within thirty days after entering upon his office, make and deliver to the town clerk of the town his undertaking, with such sureties as the town board shall prescribe, to the effect that he will well and faithfully discharge his official duties as such supervisor, and that he will well and truly keep, pay over and account for all moneys and property including the local school fund, if any, belonging to his town and coming into his hands as such supervisor; and such undertaking shall, after its execution, be presented to the town board for their approval as to its form, and the sufficiency of the sureties therein, and until the same shall be so approved, none of the moneys, books, documents, papers or property of the town shall be turned over or delivered to such supervisor elect.

§ 61. Undertaking of commissioner of excise.—Each commissioner of excise shall, before he enters upon the duties of his office, execute an undertaking to be approved by the supervisor of his town, to the effect that he will pay over to the supervisor of his town, within thirty days after the receipt thereof, all moneys received by him as such commissioner of excise, which undertaking shall be delivered to the supervisor, and by him filed in the office of the town clerk within ten days thereafter.

§ 62. Undertaking of overseer of the poor.—Every person elected or appointed overseer of the poor in any town shall, within ten days after being notified of his election or appointment, execute an undertaking with one or more sureties, to be approved by the supervisor of his town, to the effect that he will faithfully discharge the duties of his office, and will pay according to law all moneys which shall come into his hands as such overseer, which undertaking shall be delivered to the supervisor and filed by him in the office of the town clerk within ten days thereafter.

§ 63. Undertaking of commissioner of highways.—Every commissioner of highways shall, within ten days after notice of his election or appointment, execute an undertaking with two or more sureties, to be approved by the supervisor of his town, to the effect that he will faithfully discharge his duties as such commissioner, and within ten days after the expiration of his term of office, pay over to his successor all moneys remaining in his hands as such commissioner, and render to such successor a true account of all moneys received and paid out by him as such commissioner, which undertaking shall be delivered to the supervisor, and filed by him in the office of the town clerk within ten days thereafter.

§ 64. Resignation of town officers.—Any three justices of the peace of a town may, for sufficient cause shown to them accept the resignation of any town officer of their town; and whenever they shall accept any such resignation, they shall forthwith give notice thereof to the town clerk of the town.

§ 65. Filling of vacancies.—When a vacancy shall occur or exist in any town office, the town board or a majority of them may, by an instrument under their hands and seals, appoint a suitable person to fill the vacancy, and the person appointed, except justices of the peace, shall hold the office until the next annual town meeting. A person so appointed to the office of justice of the peace shall hold the office until the next annual town meeting, unless the appointment shall be made to fill the vacancy of an officer whose term will expire on the thirty-first day of December next thereafter, in which case the term of office of the person so appointed shall expire on the thirty-first day of December next succeeding his appointment. The board making the appointment shall cause the same to be forthwith filed in the office of the town clerk, who shall forthwith give notice to the person appointed. A copy of the appointment of a justice of the peace shall also be filed in the office of the county clerk, before the person appointed shall be authorized to act.

§ 66. Form of undertaking, and liability thereon.—Every undertaking of a town officer, as provided by this chapter or otherwise, must be executed by such officer and his sureties and acknowledged or proven and certified in like manner as debts to be recorded, and the approval indorsed thereon. The parties executing such undertaking shall be jointly and severally liable, regardless of its form in that respect, for the damages to any person or party by reason of a breach of its terms.

§ 67. County clerk to report omissions of town officers.—The

clerk of each county shall make a report to the district attorney of the county, of all omissions by any town officer to make and transmit any returns or certificates, which by law they are required to make to such clerk, and the district attorney shall enforce the penalty, by law imposed upon the delinquent officer.

ARTICLE IV.

THE GENERAL DUTIES OF TOWN OFFICERS.

SECTION 80. General duties of supervisor.

81. Town surveys.
82. Fires in woods.
83. General duties of town clerk.
84. Delivery of books and papers by outgoing officer to successor.
85. Furniture and blank books for clerk's office.
86. Sign for clerk's office.

§ 80. General duties of supervisor.—The supervisor of each town shall :

1. Receive and pay over all moneys raised therein for defraying town charges, except those raised for the support of highways and bridges, and of the poor.
2. Prosecute, in the name of his town, for all penalties given by law to such town for its use, and for which no other officer is specially directed to prosecute.
3. Keep a just and true account of the receipt and expenditures of all moneys which shall come into his hands by virtue of his office, in a book to be provided for that purpose at the expense of the town, and to be delivered to his successor in office.
4. On the Tuesday preceding the annual town meeting, account with the justices of the peace and town clerk of the town, for the disbursements of all moneys received by him.
5. Receive all accounts against the town, which shall be presented to him, and present the same to the town board for audit, except such accounts as he may be required by law to present to the board of supervisors.
6. Attend the annual meeting of the board of supervisors of the county, and every adjourned or special meeting of which he shall have notice, and present to such board the town audits, and such other accounts and demands against the town, and such reports and statements as he may be required by law to present to such board.

§ 81. Town surveys.—Whenever the supervisor of any town shall be required by the state engineer and surveyor to cause a survey to

be made of the bounds of his town, such supervisor, within sixty days thereafter, shall cause such survey to be made, and transmit, by mail or otherwise, a map and description thereof to the state engineer and surveyor. The expense of such survey and map shall be defrayed by the several towns whose bounds, either wholly or in part, shall be described thereby; such expense to be apportioned by the board of supervisors of the county. If any supervisor shall refuse or neglect to cause such survey to be made, he shall forfeit the sum of fifty dollars to the people of the state.

§ 82. **Fires in woods.**—Whenever the woods in any town shall be on fire, it shall be the duty of the justices of the peace, the supervisor and commissioners of highways of such town, and of each of them, to order such and so many of the inhabitants of such town liable to work on the highways, and residing in the vicinity of the fire, as they shall severally deem necessary, to repair to the place where such fire shall prevail, and there to assist in extinguishing the same, or in stopping its progress.

§ 83. **General duties of town clerk.**—The town clerk of each town shall have the custody of all the records, books and papers of the town; and he shall duly file all certificates of oaths and other papers required by law to be filed in his office. He shall transcribe in the books of records of his town the minutes of the proceedings of every town meeting held therein, and shall enter in such book every order or direction and all rules and regulations made by any such town meeting. He shall deliver to the supervisor, before the annual meeting of the board of supervisors of the county in each year, certified copies of all entries of votes for raising money made since the last meeting of the board of supervisors, and recorded in the town book. Immediately after the qualifying of any constable elected or appointed in his town, he shall return to the clerk of the county the name of such constable. If any town clerk shall willfully omit to make such return, he shall forfeit the sum of ten dollars, to be recovered by the supervisor in the name of, and for the use of the town.

§ 84. **Delivery of books and papers by outgoing officer to successor.**—Whenever the term of office of any supervisor, town clerk, commissioner of highways or overseer of the poor shall expire, or when either of such officers shall resign, and another person shall be elected or appointed to the office, the succeeding officer shall, immediately after he shall have entered on the duties of his office, demand of his predecessor all the records, books and papers under his control belonging to such office. Every person so going



out of office, whenever so required, shall deliver upon oath to his successor all the records, books and papers in his possession or under his control belonging to the office held by him, which oath may be administered by the officer to whom such delivery shall be made, and shall, at the same time pay over to his successor the moneys belonging to the town remaining in his hands. If any such officers shall have died, the successors or successor of such officer shall make such demand of the executors or administrators of such deceased officer, and such executors or administrators shall deliver, upon the like oath, all records, books and papers in their possession, or under their control, belonging to the office held by their testator or intestate. If any person so going out of office, or his executors or administrators, shall refuse or neglect, when lawfully required, to deliver such records, books or papers, he shall forfeit to the town, for every such refusal or neglect, the sum of two hundred and fifty dollars; and officers entitled to demand such records, books and papers may compel the delivery thereof in the manner prescribed by law.

§ 85. Furniture and blank books for clerk's office.—The town clerk of any town may, with the consent of the town board of his town, purchase or furnish for the town clerk's office all necessary bound blank books for the entering and keeping of the records of his town, and also necessary book and office cases, tables and other furniture for the use and convenience of the office and the safe-keeping of the books and papers of the town, and the expense thereof shall be a town charge, to be audited and paid as other town charges.

§ 86. Sign for clerk's office.—There shall also in like manner be furnished and kept for every town clerk's office a sign with the name of the town followed by the words, "town clerk's office" in plain characters thereon, with sufficient board space immediately below for posting thereon the legal notices of the town, which sign and board-space shall be placed and kept on or at the outside front door of every town clerk's office, which board shall always be one of the public places upon which any legal notice in the town may be posted.

ARTICLE V.

DIVISION FENCES.

SECTION 100. Apportionment of division fence.

101. When lands may lie open.

102. Division fences on change of title.

103. Settlement of disputes.

SECTION 104. Powers of fence viewers.

105. Neglect to make or repair division fences.

106. Fence destroyed by accident.

107. Damages for insufficient fence.

108. Damages for omitting to build fence.

§ 100. Each owner of two adjoining tracts of land, except when they otherwise agree, shall make and maintain a just and equitable portion of the division fence between such lands, unless one of such shall choose to let his lands lie open to the use of all animals which may be lawfully upon the other's lands, and does not permit any animals lawfully upon his premises to go upon lands so lying open. When the adjoining lands shall border upon any of the navigable lakes, streams or rivers of the state, the owners of the lands shall make and maintain the division fence between them down to the line of low water mark, in such lakes, streams, or rivers, except those lands which overflow annually so as to be so submerged with water that no permanent fence can be kept thereon, and known as low flat lands; and when adjoining lands shall be bounded by a line between the banks of streams of water not navigable, and the owners or occupants thereof can not agree upon the manner in which the division fence between them shall be maintained, the fence viewers of the town shall direct upon which bank of the stream, and where the division fence shall be located, and the portion to be kept and maintained by each adjoining owner. [*Thus amended by L. 1892, chap. 92.*]

§ 101. **When lands may lie open.**—When the owner of any lands shall choose to let them lie open, he shall serve upon the owners of the adjoining lands a written notice to that effect, and thereafter the owners of such adjoining lands shall not be liable in any action or proceedings for any damages done by animals lawfully upon their premises going upon the lands so lying open or upon any other lands of the owner thereof through such lands so lying open. The owner of any lands so lying open, may have the same inclosed, by giving written notice to that effect to the owners or occupants of the adjoining lands, and shall refund to such owners or occupants a just proportion of the value of any division fence made and maintained by them, or if no fence has been so made or maintained upon the line or any part of it he shall build and maintain his proportion of such division fence.

§ 102. **Division fences on change of title.**—Whenever a subdivision, or new apportionment of any division fence shall become

necessary by reason of transfer of the title of either of the adjoining owners, to the whole, or any portion of the adjoining lands, by conveyance, devise or descent, such subdivision or new apportionment shall thereupon be made by the adjoining owners affected thereby; and either adjoining owner shall refund to the other a just proportion of the value at the time of such transfer of title, of any division fence that shall theretofore have been made and maintained by such other adjoining owner, or the person from whom he derived his title, or he shall build his proportion of such division fence. The value of any fence, and the proportion thereof to be paid by any person, and the proportion to be built by him, shall be determined by any two of the fence viewers of the town, in case of disagreement.

§ 103. **Settlement of disputes.**—If disputes arise between the owners of adjoining lands, concerning the liability of either party to make or maintain any division fence, or the proportion or particular part of the fence to be made or maintained by either of them, such dispute shall be settled by any two of the fence viewers of the town, one of whom shall be chosen by each party; and if either neglect, after eight days' notice to make such choice, the other party may select both. The fence viewers, in all matters heard by them, shall see that all interested parties have had reasonable notice thereof, and shall examine the premises and hear the allegations of the parties. If they can not agree, they shall select another fence viewer to act with them, and the decision of any two shall be reduced to writing, and contain a description of the fence, and the proportion to be maintained by each, and shall be forthwith filed in the office of the town clerk, and shall be final upon the parties to such dispute, and all parties holding under them.

§ 104. **Powers of fence viewers.**—Witnesses may be examined by the fence viewers on all questions submitted to them; and either of such fence viewers may issue subpoenas for witnesses, who shall receive the same fees as witnesses in a justice's court. Each fence viewer thus employed shall be entitled to one dollar and fifty cents per diem. The party refusing or neglecting to pay the fence viewers or either of them, shall be liable to an action for the same with costs.

§ 105. **Neglect to make or repair division fence.**—If any person who is liable to contribute to the erection or repair of a division fence, shall neglect or refuse to make and maintain his proportion of such fence, or shall permit the same to be out of repair, he shall be

liable to pay the party injured all such damages as shall accrue thereby, to be ascertained and appraised by any two fence viewers of the town, and to be recovered with costs. The appraisement shall be reduced to writing, and signed by the fence viewers making it. If such neglect or refusal shall be continued for the period of one month after request in writing to make or repair the fence, the party injured may make or repair the same, at the expense of the party so neglecting or refusing, to be recovered from him with costs.

§ 106. **Fence destroyed by accident.**—Whenever a division fence shall be injured or destroyed by floods, or other casualty, the person bound to make and repair such fence, or any part thereof, shall make or repair the same, or his just proportion thereof, within ten days after he shall be so required by any person interested therein. Such requisition shall be in writing, and signed by the party making it. If the person so notified shall refuse or neglect to make or repair his proportion of such fence, for the space of ten days after such request, the party injured may make or repair the same at the expense of the party so refusing or neglecting, to be recovered from him with costs.

§ 107. **Damages for insufficient fence.**—Whenever the electors of any town shall have made any rule or regulation, prescribing what shall be deemed a sufficient division fence in such town, any person who shall thereafter neglect to keep a fence according to such rule or regulation shall be precluded from recovering compensation, for damages done by any beast lawfully kept upon the adjoining lands that may enter therefrom on any lands of such person, not fenced in conformity to the said rule or regulation, through any such defective fence. When the sufficiency of a fence shall come in question in any action, it shall be presumed to have been sufficient until the contrary be established.

(R. S. p. 905.)

§ 108. **Damages for omitting to build fence.**—If any person liable to contribute to the erection or repair of a division fence shall neglect or refuse to make and maintain his proportion of such fence, or shall permit the same to be out of repair, he shall not be allowed to have and maintain any action for damages incurred by beasts coming thereon from adjoining lands where such beasts are lawfully kept, by reason of such defective fence, but shall be liable to pay to the party injured all damages that shall accrue to his lands, and the crops, fruit trees and shrubbery thereon, and fixtures connected with the land, to be ascertained and appraised by any two fence viewers of the town, and to be recovered, with costs; which appraisement shall be reduced to writing and signed * by the fence viewers making the same, but shall be only prima facie evidence of the amount of such damages.

* So in the original.

§ 109. **Use of barbed wire in the construction of division fences.**—Barbed wire may be used in the construction of any division fence, provided, however, that the person or corporation desiring to use such material shall first obtain from the owner of the adjoining property his written consent that it may be so used. If the owner of the adjoining property refuses to consent to the building of such a fence, it may nevertheless be built in the following manner: The fence shall be of four strands of wire with a sufficient bar of wood at the top; and the size of such top bars and of the posts and supports of such fence, and their distances apart, shall be such as the fence viewers of the town may prescribe. Whenever such fence shall become so out of repair as to be unsafe, it shall be the duty of the owner or owners to immediately repair the same. But any person building such a fence without the written consent of the owner of the adjoining property, shall be liable to all damages that may be occasioned by reason of such fence. But this section shall not be so construed as to permit railroad corporations to use barbed wire in the construction of fences along their lines contrary to the provisions of section thirty-two of the railroad law.

§ 2. Chapter seven hundred and fifty-five of the laws of eighteen hundred and ninety-four is hereby repealed.

Add'd by ch. 524 of 1896. In effect May 11, 1896.

ARTICLE VI.

STRAYS AND CHATTELS DOING DAMAGE, FLOATING TIMBERS AND WRECKS.

SECTION 120. Strays and beasts doing damage.

121. Notice to town clerk.
122. Impounding beasts.
123. Notice to owner.
124. Charges for notices.
125. Fees of fence viewers.
126. When lien may be foreclosed.
127. Notice of sale by fence viewers.
128. Proceeds of sale.
129. Notice to owner of fence viewers' meeting.
130. Duties of fence viewers.
131. Foreclosure of lien by action.
132. Duty and fees of pound-master.
133. Surplus moneys.
134. Villages and cities deemed towns.
135. Damages from inanimate goods.
136. Penalty for conversion of floating timber.
137. Recovery of wrecked property.
138. Powers and duties of sheriffs, coroners and wreck-masters.
139. Sale of wreck.
140. Delivery of wreck or proceeds to claimant.
141. Claimant's undertaking.
142. When owner may sue.
143. Claim for salvage.
144. Duties of wreck-masters.
145. Detention of wreck.
146. Appointment of appraisers.
147. Sale and disposition of property.
148. Publication of notices of sale.
149. Publication of notice of wrecked property.
150. Appointment of wreck-masters.

§ 120. **Strays and beasts doing damage.**—Whenever any person shall have any strayed horses, cattle, sheep, swine or other beasts upon his inclosed land, or shall have any such beast on land owned or occupied by him doing damage, and such beast shall not have come upon such lands from adjoining lands, where they are lawfully kept, by reason of his refusal or neglect to make or maintain a division fence required by him by law, such person may have a lien upon such beasts for the damage sustained by reason of their so coming upon his lands and doing damage, for his reasonable charges for keeping them, and all fees and costs made thereon, and he may keep such beasts until such damages, charges, fees and costs are paid, or such lien is foreclosed, upon complying with the provisions of this article relating thereto.

§ 121. **Notice to town clerk.**—If such beasts are not redeemed within five days after coming upon such lands, the person entitled to such lien, shall deliver to the town clerk of the town, within which such lands or some part thereof shall be, a written notice subscribed by him, containing his residence, and a description of the beasts so strayed or coming upon his lands, as near as may be, and that he claims a lien on such beasts for such damages, charges, fees and costs. The town clerk shall record the notice in a book to be kept by him for that purpose, for which he shall receive ten cents for each beast, to be paid by the person delivering the notice. Such book shall always be kept open for inspection, and no fees shall be taken by the clerk therefor.

§ 122. **Impounding beasts.**—Within six days after such beasts shall have come upon such lands, such owner or occupant may cause them to be put in the nearest pound in the same town, if there be one, there to remain until they are redeemed, sold or reclaimed according to law. If there be no such pound, or he elect to keep such beasts, he shall cause them to be properly fed and cared for until they are redeemed, sold or reclaimed according to law.

§ 123. **Notice to owners.**—Within thirty days after any such beasts may have come or been found upon any lands, the owner or occupant of the lands shall serve a written notice, either personally or by mail, upon the owner of the beasts, if known, that they are upon his lands, or in pound, as the case may be, and are held by him as strays or beasts doing damage, as the case may be; and if such owner is not known, he shall publish such notice, within such time, in the nearest newspaper of the county for at least two successive weeks.

§ 124. **Charges for notice.**—The person delivering the notice to the town clerk shall be entitled to receive therefor, in addition to the fees paid the town clerk, fifteen cents each for all horses, mules, cattle and swine, and five cents for each other beast described in the notice. If the charges, damages, costs and fees are not agreed upon between the person delivering the notice and the owner of the beasts, they shall be determined by two fence viewers of the town, one of

whom shall be selected by the person claiming the lien, the other by the fence viewer so selected. If such fence viewers can not agree, they shall select another to act with them, and the decision of any two of them shall be final.

§ 125. **Fees of fence viewers.**—Each fence viewer shall be entitled to receive ten cents for every mile he shall be obliged to travel from his residence to the place where the beasts are kept, and seventy-five cents for certificate of the charges as ascertained by them.

§ 126. **When lien may be foreclosed.**—If the owner of such beasts shall not redeem the same within three months after delivery of the notice to the town clerk, the person delivering the notice may foreclose his lien by action, or by a sale of the beasts, as herein provided. When a person claiming a lien, as herein provided, shall fail to establish the same, he shall not be entitled to receive anything for damages, charges, fees or costs, but shall be liable to pay all fees, costs and expenses incurred by reason of his keeping such beasts and the proceedings thereon.

§ 127. **Notice of sale by fence viewers.**—After such three months, a fence viewer of the town, on application of the person delivering the notice, shall give at least ten days' previous notice of the time and place of the sale of such beasts, by advertisement posted up in at least five public places in the town where such beasts may have been kept, one of which shall be at or near the outside door of the town clerk's office. At the time and place mentioned, such fence viewers shall sell such beasts to the highest bidder, unless redeemed by the owner.

§ 128. **Proceeds of sale.**—Out of the proceeds from such sale, the fence viewer shall retain and pay the sums charged for such notices, fees and costs, together with the sums specified in the certificate for keeping the beasts, and damages done by them; and the like charges for the sale, as are allowed on sales under executions issued out of justices' courts, and he shall pay the residue to the owner of the beasts, if he shall appear and demand the same.

§ 129. **Notice to owner of fence viewers' meeting.**—When the owner of such beasts is known and resides in the same town where such beasts are kept, five days' notice of the time and place of the meetings of the fence viewers to determine the damages done by such beasts, and the charges for keeping them, shall be personally served on him, if he resides in the same town; if he resides elsewhere, and his post-office address is known, such notice shall be served by mail or personally.

§ 130. **Duties of fence viewers.**—The fence viewers shall view the premises where damages are claimed to have been done, and they may issue subpoenas, examine witnesses and take any competent evidence of the facts and circumstances necessary to enable them to determine the matter submitted to them, and shall determine any dispute that may arise touching the sufficiency of any division fence around the premises where such damage was done, and from where and how the beasts came upon the lands of the person claiming such damages and charges; if they determine that for any cause the claimant's lien is not enforceable, they shall so certify, and the owner of the beasts shall thereupon be entitled to them without paying any charges thereon.

§ 131. **Foreclosure of lien by action.**—When such lien is foreclosed by action, all questions relating to damages, charges, sufficiency of fence, and from where and how such beasts came upon the lands of the person claiming such damages and charges, shall be proven upon the trial of such action, and no certificate of fence-viewers upon such questions shall then be necessary.

§ 132. **Duty and fees of pound-masters.**—Every pound-master shall receive and keep all beasts delivered to him as herein provided, until they shall be redeemed, sold or reclaimed, for which he shall be entitled to a reasonable compensation, not exceeding fifty cents per day for a horse or mule; twenty-five cents per day for each head of cattle, and fifteen cents per day for all other beasts, to be determined by the fence viewer making the sale, or the court before whom the action is tried, besides his fees for taking and discharging the beasts, to be paid by the owner of the beasts, if the lien is established, otherwise by the person claiming a lien thereon.

§ 133. **Surplus moneys.**—If the owner of the beasts shall not appear and demand the residue of such moneys within one year after the sale, he shall be thereafter precluded from recovering any part thereof, and the same shall be paid by the officer making the sale to the overseers of the poor of the town, or, in cities, to the officers having their powers, for the use of the poor thereof, and their receipt shall be a legal discharge to the keeper of such beasts and the officer selling the same. If the officer who shall have sold such beasts shall not, within thirty days after the expiration of the year, pay such moneys to the overseers of the poor of the town, or, in cities, to officers having their powers, he shall forfeit to the town or city double the sum so remaining in his hands, together with the amount of such moneys.

§ 134. **Villages and cities deemed towns.**—The villages and cities of this state shall be considered towns for the purposes of this article; and the trustees or the village and the aldermen of the city shall be fence viewers therein for the purposes of this article.

§ 135. **Damages from inanimate goods.**—When any person shall be authorized to distrain inanimate goods or chattels doing damage, or whenever any logs, timbers, boards or plank, in rafts or otherwise, or other personal property shall have drifted upon his lands, he shall be entitled to the same remedies, and shall proceed therein in the same manner and with the same powers as herein provided with respect to beasts found doing damage, so far as such provisions are applicable. He may at any time deliver his notice of lien to the town clerk, describing the property, and he shall keep the same in some convenient place without removal to a pound, until the property is sold or reclaimed. The same officers shall conduct proceedings therein, as in proceedings where beasts are found doing damage, and all proceeds of sale shall be, in like manner, paid over and applied, subject to the same penalties and liabilities, and with the same force and effect.

§ 136. **Penalty for conversion of floating lumber.**—Whoever shall convert to his own use, without the consent of the owner thereof, any logs, timber, boards or plank, floating in any of the waters of this state, or lying on the banks or shores of any such waters, or on any island where the same may have drifted, shall, for every offense, forfeit to the owner of such logs, or other lumber, three times the value thereof.

§ 137. **Recovery of wrecked property.**—No ship, vessel or boat, nor any goods, wares and merchandise, cast by the sea or any inland lake or river upon the land, shall be deemed to belong to the people of the state as wrecked property, but may be recovered by the owner, consignee or person having the charge thereof at the time of the disaster by which the wreck was occasioned, upon the payment of a reasonable salvage and necessary expenses.

§ 138. **Powers and duties of sheriffs, coroners and wreck-masters.**—The sheriff, coroners and wreck-masters of every county in which any wrecked property shall be found, when no owner or other person entitled to the possession of such property shall appear, shall severally take all necessary measures for saving and securing such property; take possession thereof, in whose hands soever the same may be, in the name of the people of the state; cause the value thereof to be appraised by disinterested persons, and keep the

same in some safe place to answer the claims of the persons entitled thereto.

§ 139. **Sale of wreck.**—If the property so saved shall be perishable, so as to render the sale thereof expedient, the officer, in whose custody the same shall be, shall apply to the county court of the county, or the city court of the city, where such property may be, by a verified petition stating the facts, for an order authorizing such sale; if the court shall be satisfied that a sale of the property would be most beneficial to the parties interested, it shall make the order so applied for, and the officer having custody of the property, shall sell the same at public auction, at the time and in the manner specified in the order, and the proceeds of such sale, deducting the expenses allowed by the court, shall be paid to the treasurer of the county in which the property shall have been found.

§ 140. **Delivery of wreck or proceeds to claimant.**—If, within a year after such wrecked property shall have been found and saved, any person shall claim the same or the proceeds thereof, as owner or consignee, or the agent of the owner or consignee, and shall establish his claim by evidence, such court shall make an order directing the officer, in whose possession the property, or its proceeds shall be, to deliver or pay the same to the claimant, upon the payment by him of a reasonable salvage, and all necessary expenses incurred in the preservation and keeping of the property.

§ 141. **Claimant's undertaking.**—No such order shall, however, be made unless the claimant shall deliver to such court an undertaking with one or more sufficient sureties to be approved by the court, to the effect that he will pay all damages recovered against such claimant or his representatives, within two years after the date of the undertaking, by any person establishing his title as owner of such property or proceeds. The undertaking shall be filed in the clerk's office of the county in which it shall be taken.

§ 142. **When owner may sue.**—The rejection by the court of any claim for wrecked property, shall not preclude the claimant from maintaining an action for the recovery of such property or its proceeds, against the officer in whose hands the same shall be; but if the plaintiff in any such action shall prevail, there shall be deducted, in addition to the salvage and expenses charged on the property, from the damages recovered, the costs of the defense.

§ 143. **Claim for salvage.**—Every officer to whom any order duly made, for the delivery of the wrecked property, or its proceeds, shall be directed, shall present to the claimant exhibiting such order,

a written statement of the claims for salvage and expenses on such property, and proceeds. If the claimant shall refuse to allow such claims, the amount of such salvage and expenses shall be adjusted in the manner hereinafter provided, and, after the payment or tender of the payment of such salvage and expenses, as agreed to or adjusted, the officer, in whose custody such property or proceeds shall be, shall deliver or pay the same, according to the terms of the order directed to him.

§ 144. **Duties of wreck-masters.**—Wreck-masters in the several counties, shall give all possible aid and assistance to all vessels stranded on the coasts of their respective counties, and to the persons on board the same, and use their utmost endeavors to save and preserve such vessels and their cargoes, and all goods and merchandise which may be cast by the sea upon the land; and in the performance of these duties they shall employ such men as they may respectively think proper; and all magistrates, constables and citizens shall aid and assist the wreck-masters, when required in the discharge of their duties.

§ 145. **Detention of wreck.**—All sheriffs, coroners and wreck-masters, and all persons employed by them, and all other persons aiding and assisting in the recovery and preservation of wrecked property, shall be entitled to a reasonable allowance as salvage for their services, and to all expenses incurred by them in the performance of such services, out of the property saved, and the officer having the custody of such property shall detain the same until such salvage and expenses shall be paid, and the salvage claimed in any case shall not exceed one-half of the value of the property or proceeds, and every agreement, order or adjustment allowing a greater salvage shall be void.

§ 146. **Appointment of appraisers.**—If the amount of salvage and expenses on property saved shall not be adjusted by agreement of the parties, the owner or consignee of such property, or the master or supercargo having charge thereof at the time the same was wrecked, or a claimant having an order for its delivery, may apply to the county court of the county or the city court of a city in which such property shall be, for the appointment of suitable persons as appraisers, to adjust the amount of such salvage and expenses; and such court shall, by an order, appoint three disinterested freeholders of the county, not inhabitants of the town in which the property shall have been saved, to adjust such salvage and expenses, who, before they shall enter upon the performance of their duties,

shall be sworn to perform faithfully and impartially the duties of their trust. They shall have power to issue compulsory process for the attendance of witnesses, and to administer oaths to all witnesses who shall attend or be produced; and the written decision of the appraisers, or any two of them, as to the amount of salvage and expenses, and the sums to be paid to each person entitled to share in such salvage, or claiming such expenses shall be final and conclusive. The fees and expenses of the appraisers shall be paid by the person upon whose application they shall have been appointed, and shall be a charge upon the property saved. Each appraiser shall be entitled to five dollars for each day's necessary attendance and expenses.

§ 147. **Sale and disposition of property.**—If within a year after wrecked property shall have been saved, no person shall have appeared to claim the same, or if the salvage and expenses on such property shall have been paid within three months after the same shall have been adjusted, or an action for the recovery of the property have been commenced, the officer in whose custody the property shall be shall sell the same at public auction, and pay the proceeds of such sale, deducting salvage and expenses, into the treasury of this state, for the benefit of the parties interested; but in no case shall any deduction of salvage and expenses be made unless the amount thereof shall have been adjusted upon due proof, by an order of such county or city court, a copy of which order and of the evidence in support thereof, shall be transmitted by the court making it to the comptroller. If the property has been sold as perishable, the balance of the proceeds, after the salvage and expenses as adjusted, shall be paid by the county treasurer into the treasury of this state.

§ 148. **Publication of notices of sales.**—Public notice of every sale to be made of wrecked property, under the provisions of this article, shall be published by the officer making the sale, for at least two weeks in succession, in one or more of the newspapers published in the county where the property shall have been saved. Every such notice shall state the time and place of the sale, and shall contain a particular description of the property intended to be sold.

§ 149. **Publication of notice of wrecked property.**—Every sheriff, coroner, or wreck-master, into whose possession any wrecked property shall come, shall immediately thereafter publish a notice directed to all parties interested, for at least four weeks in succession, in one or more of the newspapers published in the county where the property shall have been saved. Every such notice shall contain a

minute description of such wrecked property, and every bale, bag, box, cask, piece or parcel thereof, and of the marks, brands, letters and figures on each, and shall state where such wrecked property then is, and its actual condition, and the name, if known, of the vessel from which it was taken or cast on shore, and the master and supercargo of such vessel, and the place where such vessel then is, and its actual condition. The expense of publishing every notice required to be published relating to wrecks, shall be charged on the property or proceeds to which it relates.

§ 150. **Appointment of wreck-masters.**—There shall continue to be fifteen wreck-masters for the county of Suffolk, twelve in the county of Queens, three in the county of Kings, two in the county of Richmond and two in the county of Westchester, who shall hold their office for two years, and be appointed by the governor.

ARTICLE VII.

THE TOWN BOARD.

SECTION 160. Constitution and regular meeting of the town board.

161. First meeting of town board.
162. Second meeting of town board.
163. Appeal from town board, to board of supervisors.
164. Accounts of justices in criminal matters.
165. Fees of officers in criminal proceedings, when town or county charge.
166. Pay of town officers.
167. Accounts to be made in items.
168. Saving clause.
169. Traveling fees.
170. Abstract for board of supervisors.
171. Town fire companies.
172. Electing town auditors.
173. Board to be elected.
174. Powers conferred upon town auditors.*
175. Town board to appoint temporary board of auditors.
176. Compensation of town auditors; vacancies, how filled.
177. Town meeting may vote to discontinue.
178. Compensation of town officers
179. Pound-masters' fees.
180. What deemed town charges.
181. Excise moneys, how disposed of.
182. How towns to sue and be sued, and make contracts.
183. Actions for trespass on town lands.

§ 160. **Constitution and regular meetings of the town board.**
—The supervisor, town clerk, and justice of the peace, or any two

*So in the original.

of such justices, shall constitute the town board in each town, and shall hold at least two meetings annually, at the office of the town clerk, one on the Tuesday next preceding the annual town meeting, termed the first meeting; and the other on the Thursday next preceding the annual meeting of the board of supervisors, termed the second meeting of the town board.

§ 161. **First meeting of town board.**—At the first meeting of the town board, all town officers who receive or disburse any moneys of the town, shall account with the board for all such moneys received and disbursed by them, by virtue of their offices; but no member of the board shall sit as a member of the board when any account in which he is interested, is being audited by the board. The board shall make a statement of such accounts, and append thereto a certificate signed by at least a majority of them, showing the state of the accounts of each officer at the date of the certificate, which statement and certificate shall be filed with the town clerk of the town and be by him produced at the next annual town meeting, and publicly read, if requested by any elector.

§ 162. **Second meeting of town board.**—The second meeting of the town board shall be for the purpose of auditing accounts and allowing or rejecting all charges, claims and demands against the town. If any account is wholly rejected, the board shall make a certificate to that effect, signed by at least a majority of them, and file the same in the office of the town clerk. If the account is allowed wholly or in part, the board shall make a certificate to that effect, signed by at least a majority of them, and if allowed only in part, they shall state in the certificate the items or parts of items allowed, and the items or parts of items rejected, and shall cause a duplicate of every certificate allowing an account, wholly or in part, to be made, one of which duplicates shall be delivered to the town clerk of the town, to be by him kept on file for the inspection of any of the inhabitants of the town; and the other shall be delivered to the supervisor of the town, to be by him laid before the board of supervisors of his county, at their annual meeting. The board of supervisors shall cause to be levied and raised upon the town the amount specified in the certificate, in the same manner as they are directed to levy and raise other town charges.

§ 163. **Appeal from town board to board of supervisors.**—If any account of a justice of the peace, or town constable, for fees in criminal proceedings, is audited by a town board of any town, any taxpayer of the town may appeal from the auditing and allowance

to the board of supervisors of the county, and the board of supervisors may audit and allow such account. If the account shall be disallowed, or the amount thereof reduced, the party presenting the same shall have the same right of appeal as above provided. The appeal shall be taken within fifteen days after filing the certificate of allowance, or disallowance of an account by the town board, in whole or in part, by the service of a notice of appeal in writing on the town clerk and the clerk of the board of supervisors; and the town clerk shall forthwith thereafter transmit the account to the board of supervisors of the county, to be audited and allowed by them; and the town board shall have no further jurisdiction over the account after the service of the notice of appeal. Such part of such accounts as the board of supervisors shall allow, shall be assessed and collected the same as other town charges.

§ 164. Accounts of justices in criminal matters.—The accounts rendered by justices of the peace for services in criminal proceedings shall, in all cases, contain the name and residence of the complainant, the offense charged, the action of the justice on such complaint, the constable or officer to whom any warrant on such complaint was delivered, whether the person charged was or was not arrested, and whether an examination was waived or had, and witnesses sworn thereon; and the account shall also show the final action of the justice in the premises.

§ 165. Fees of officers in criminal proceedings when town or county charge.—The fees of magistrates and other officers for services in criminal proceedings, for or on account of an offense which a court of special sessions has not jurisdiction to try, shall be a county charge, if the magistrate had jurisdiction of the proceedings in which the services were rendered. The fees of magistrates and other officers in other criminal proceedings, or in criminal actions tried before a magistrate of the town where the offense is charged to have been committed shall be a charge against such town. The fees of a magistrate or officer in issuing or serving process for an offense committed in a town other than that in which such magistrate resides, and of which a court of special sessions has jurisdiction to try, or which a magistrate has jurisdiction to hear and determine, and the fees of a magistrate in the trial or examination of a person brought before him by reason of the absence or inability to act of the magistrate before whom he is directed by the warrant to be brought, charged with such an offense committed in a town other than that in which the magistrate before whom such person is brought resides, shall, in either case, be a charge against the town in which such offense was committed. Except as provided in this section no fees shall be allowed either as a town or county charge to a magistrate or other officer, for services in a criminal action or proceeding, before a magistrate of one town for or on account of an offense charged to have been committed in another town, and which a court of special sessions has jurisdiction to try, or which a magistrate has jurisdiction to hear and determine.

Am'd by chap. 458 of 1898. In effect Sept. 1, 1898.

§ 166. Pay of town officers.—No town officer shall be allowed any per diem compensation for his services unless expressly provided by law.

§ 167. **Accounts to be made out in items.**—No account shall be audited by any board of town auditors or supervisors or superintendent of the poor for any services or disbursements unless such account shall be made out in items and accompanied with an affidavit attached thereto, and to be filed with such account, made by the person presenting or claiming the same, that the items of such account are correct and that the disbursements and services charged therein have been in fact made or rendered or are necessary to be made or rendered at that session of the board, and stating that no part thereof has been paid or satisfied; and the chairman of the board or either of the superintendents may administer any oath required under this section.

§ 168. **Saving clause.**—Nothing in the preceding section, shall be construed to prevent any board from disallowing any account, in whole or in part, when so rendered and verified, nor from requiring any other or further evidence of the truth and propriety thereof, as such board may think proper.

§ 169. **Traveling fees.**—No traveling fees shall be allowed for traveling to subpoena a witness, beyond the limits of the county in which the subpoena was issued, or of an adjoining county, unless the board auditing the account, shall be satisfied, by proof, that such witness, could not be subpoenaed without additional travel; nor shall any traveling fees for subpoenaing witnesses be allowed, except such as the board auditing the account, shall be satisfied were indispensably necessary.

§ 170. **Abstract for board of supervisors.**—Boards of town auditors, shall annually make brief abstracts of the names of all persons who have presented to them, accounts to be audited, the amounts claimed by each of such persons, and the amounts finally audited by them respectively, and shall deliver such abstracts to the clerk of the board of supervisors, and the clerk shall cause the same to be printed, with the statements required to be printed by him.

§ 171. **Town fire companies.**—The town board of any town may appoint in writing, any number of inhabitants of their town, which they may deem necessary, to be a fire company for the extinguishment of fires in their town; but no such company, as herein provided, shall be formed in any incorporated city or village. Each fire company, thus formed, shall choose a captain and a clerk thereof, and may establish such by-laws and regulations as may be necessary to enforce the performance, by such firemen, of their duty, and may impose such penalties, not exceeding five dollars for each offense, as may be necessary for that purpose. Such penalties may be collected by and in the name of the captains, in any court having cognizance thereof, and, when collected, shall be expended by the companies for the repair and preservation of their engines and apparatus. All vacancies which may,

at any time, happen in such companies by death, resignation or otherwise, shall, from time to time, be filled by the town board. The elector of any highway district, in which any town fire company shall have their headquarters, at a special meeting lawfully called by the town clerk, who is hereby authorized to call such special meeting may vote, by ballot, a sum of money, not exceeding four thousand dollars, for the purchase of a fire-engine and apparatus, and for the purchase or lease of suitable buildings and grounds for keeping and storing such fire-engine and apparatus and other property of said highway district. And whenever said electors shall so vote said money for the purchase of a fire-engine and apparatus and for the purchase or lease of suitable buildings and grounds for keeping and storing such fire-engine and apparatus and other property of said highway district, the commissioners of highways may, with the written consent and approval of the town board, contract for and purchase for such district a good and sufficient fire-engine and apparatus, and may contract for and purchase or lease for such district, suitable buildings and grounds for keeping and storing such fire-engine and apparatus and other property of said district, at a price not to exceed the sum so voted, which engine and apparatus and buildings and grounds shall be the property of said highway district, but may be used and cared for by such fire company. The purchase-price of said fire-engine and apparatus and buildings and grounds shall be assessed and levied upon the property of said district and collected in the same manner as other town charges are assessed, levied and collected, except that the amount thereof shall be put in a separate column upon the tax-roll, and the board of supervisors of the county shall cause the sum, as certified by the town board, to be levied upon the taxable property of such highway district.

Am'd by chap. 254 of 1891, and chap. 201 of 1894. Latter amendment went into effect March 31, 1894.

§ 172. **Electing town auditors.**—The electors in each of the towns may, on the application of twenty freeholders residing therein, at any annual town meeting, determine by ballot whether there shall be elected, at the next succeeding annual town meeting, held in the town, a board of town auditors, in and for the town, independent of the town board in the manner, and under the restrictions, hereinafter prescribed.

§ 173. **Board to be elected.**—If a majority of the ballots so cast, shall be in favor of electing a board of town auditors, there shall be elected, at the next succeeding annual town meeting, three town auditors, who shall form the board of town auditors of the town, one of whom shall be elected for one year, one for two years and one for three years; and annually thereafter, unless otherwise determined, as provided in this article, one town auditor, to serve three years.

§ 174. **Powers conferred upon town auditors.**—Upon the election or appointment and qualification of any such board of town auditors in any town, the powers of the town board of that town,

with respect to auditing, allowing or rejecting all accounts, charges, claims or demands against the town, and with respect to the examination, auditing and certification of accounts of town officers, shall devolve upon and thereafter be exercised by such board of town auditors, during the continuance of such board; and with respect to the powers so conferred, and the duties so imposed, they shall be the town board of the town during their continuance. No person so elected or appointed shall hold any other office in the town during the term for which he is elected or appointed; and if he shall accept an election or appointment to any other office in the town, he shall immediately cease to be a town auditor, and the vacancy in his office shall be supplied in the manner hereinafter provided.

Am'd by ch. 85 of 1896. In effect March 11, 1896.

§ 175. **Town board to appoint temporary board of town auditors.**—The town board of the town in which the electors shall determine to elect a board of town auditors, or a majority of them, shall, within sixty days after the town meeting where it was so determined, convene at some suitable place in the town, at the hour of ten o'clock in the forenoon, and appoint, in writing under their hands and seals, three persons having the qualifications herein prescribed, to be town auditors of the town, and shall immediately cause such appointment to be filed with the town clerk. The persons so appointed shall, within ten days after receiving notice of their appointment take, subscribe and file in the office of the town, clerk the oath of office; and thereupon they shall be the board of town auditors of the town, and shall possess and exercise all the powers and duties of town auditors and shall hold and discharge the duties of the office until the next annual town meeting to be held in the town after their appointment.

§ 176. **Compensation of town auditors; vacancies how filled.**—Each of such town auditors shall be entitled to receive for his services three dollars for each day, not exceeding ten days in any one year, except in towns having a population of twelve thousand and upwards, in which towns each of such town auditors shall be entitled to receive for his services three dollars for each day, but not to exceed thirty days in any one year, actually and necessarily devoted by him to the services of the town, in the duties of said office. The supervisor of the town shall appoint some suitable and competent person to fill any vacancy occurring in the board of town auditors until the next annual town meeting.

Am'd by ch. 200 of 1896. Took effect April 1, 1896.

§ 177. **Town meeting may vote to discontinue.**—At any subsequent town meeting, after the expiration of five years from the determination to elect a board of town auditors, the electors of the town may determine by ballot to abolish such board in the same manner as they determined to establish such board; and thereupon such board shall be abolished.

§ 178. Compensation of town officers.—The following town officers shall be entitled to compensation at the following rates for each day actually and necessarily devoted by them to the service of the town, in the duties of their respective offices, when no fee is allowed by law for the service. The supervisor except when attending the board of supervisors, town clerks, assessors, commissioners of highways, justices of the peace, overseers of the poor, inspectors of election and clerks of the polls, two dollars per day, each of them.

Am'd by chap. 297 of 1898.

§ 179. Pound-master's fees.—The pound-masters shall be allowed the following fees for their services, to wit: For taking into the pound and discharging therefrom every horse, mule and head of cattle, fifteen cents; for every other beast ten cents.

§ 180. What deemed town charges.—The following shall be deemed town charges:

1. The compensation of town officers for services rendered for their respective towns.

2. The contingent expenses necessarily incurred for the use and benefit of the town.

3. The moneys authorized to be raised by the vote of a town meeting for any town purpose.

4. Every sum directed by law to be raised for any town purpose.

5. All judgments duly recovered against a town.

6. All damages recovered against a town officer for any act done pursuant to a direction or resolution, duly adopted by the town board, or at a town meeting duly held; and all damages against any such officer for any act done in good faith, in his official capacity, without any such direction or resolution, may be made a town charge, by a vote of the town, at a town meeting duly held.

7. The costs and expenses, lawfully incurred by any town officer in prosecuting or defending any action or proceeding brought by or against the town or such officer for an official act done, shall be a town charge in all cases where the officer is required by law to so prosecute or defend, or to do such act, or is instructed to so prosecute or defend, or do such act, by resolution duly adopted by the town board, or at a town meeting duly held. All town charges specified in this section shall be presented to the town board for audit, and the moneys necessary to defray such charges shall be levied

on the taxable property in such town by the board of supervisors.

§ 181. **Excise moneys how disposed of.**—All excise moneys shall be disposed of as directed by the town board of the town in which such moneys are paid, except in those counties where the support of the poor is a county charge, in which case such moneys shall be paid into the county treasury, subject to the control of the board of supervisors.

§ 182. **How towns to sue and be sued, and make contracts.**—Any action or special proceeding for the benefit of a town, upon a contract lawfully made with any of its town officers, to enforce any liability created or duty enjoined upon those officers, or the town represented by them, or to recover any penalty or forfeiture given to such officers, or the town represented by them, or to recover damages for injury to the property or rights of such officers, or the town represented by them, shall be in the name of the town. Any action or special proceeding to enforce the liability of the town upon any such contract, or for any liability of the town for any act or omission of its town officers, shall be in the name of the town; and all contracts made by such officers for and in behalf of their towns shall be in the name of the town. When such contracts are otherwise lawfully made, they shall be deemed the contracts of the town, notwithstanding it is omitted to be stated therein that they are in the name of the town.

§ 183. **Actions for trespass on town lands.**—Whenever an action is brought by a town to recover a penalty for a trespass committed upon its land, and it shall appear upon the trial that the damages from the trespass exceed ten dollars, the town shall recover the damages and costs in lieu of the penalty, and such recovery shall be a bar to any subsequent civil action for the same trespass.

ARTICLE VIII.

TOWN-HOUSES, LOCK-UPS, AND BURIAL GROUNDS.

SECTION 190. Town-house.

191. Erection and control of town-house.
192. Lock-ups.
193. Electors may choose trustees of burial-grounds.
194. Trustees to lay out ground.
195. Burial-grounds, when to belong to town.

§ 190. **Town-house.**—The electors of any town in which there

shall not be a town-house, at any annual town meeting, or at a special town meeting lawfully called by the town clerk, may vote by ballot a sum of money not exceeding in dollars four times the number of electors in the town, for the purchase of a site and the building of a town-house, or for the purpose of contributing to the erection of a building for the joint use of the town and of an incorporated village within its limits. The board of supervisors of the county may cause the sum so voted to be collected with the other expenses of the town.

§ 191. **Erection and control of town-house.**—Sites shall be purchased and houses erected by the town board in the name of the town, and shall be controlled by the town board; and the electors may, from time to time, vote such sum of money as may be necessary to keep any town-house in repair and insured, except where the building is to be erected within the limits of an incorporated village and the town is to contribute but a part of the expense of erecting the building, in which case the town board and the board of trustees of the village shall agree upon the terms and conditions of the use, management, control and repair of the portion of the town-house for town and village purposes respectively.

§ 192. **Lock-ups.**—The electors of each town, upon the application of ten freeholders of the town, may, by ballot at their annual town meeting, direct the erection of one or more houses of detention, or lock-ups, for the detention of persons committed by the magistrates thereof, and direct such sums to be raised in their town by tax, for the expense of building, or of maintaining the same, as they may deem necessary. Such houses of detention, or lock-ups, may be used for the purpose of temporary keeping and confining all persons arrested by any constable or officer in the town prior to trial or examination, or committed by any magistrate of the town pending trial or examination before such magistrate, or after commitment to a county jail by a magistrate, when immediate removal to the county jail can not be made, and only until he can be conveniently removed to such jail.

§ 193. **Electors may choose trustees of burial-grounds.**—The electors of any town may, at an annual town meeting, choose three or five persons to act as a board of trustees of any burial-grounds within the limits of and belonging to the town, as such electors may designate, and direct the supervisor of the town to convey by deed to such board of trustees, and their successors in office, for the purposes hereinafter mentioned, the lands already composing such grounds; and also any other lands that may be hereafter acquired for the purpose of enlarging such grounds. Such electors may also fill any vacancies that may occur in the board of trustees. Such boards of trustees and all boards of trustees, heretofore created, pursuant to chapter forty-six of the laws of eighteen hundred and seventy-three, are hereby declared to be corporate bodies, under the name of the

board of trustees of the cemetery, for which they are chosen respectively, capable of suing and being sued as such, and of taking and holding gifts and bequests of personal property for the care and improvement of the cemeteries under their charge, or any lot therein.

Am'd by chap. 418 of 1894. Took effect May 8, 1894.

§ 194. **Trustees to lay out ground.**—Such board of trustees shall lay out into burial lots any grounds so conveyed to them; and within one year after the conveyance to them they shall cause to be recorded in the office of the clerk of the county in which they reside a plot or plots of the ground so laid out by them, which shall clearly indicate the number and location of the several lots, which plots shall be duly certified to, under the hands and seals of the chairman and secretary of the board, and acknowledged before an officer authorized to take proof and acknowledgment of deeds. They shall designate and set aside certain lots which shall be free for the interment of the remains of indigent persons, deceased, and shall sell and convey, by direction of a majority of the board, under the hands and seals of its chairman and secretary, burial lots, at such terms as may be agreed upon between the parties, and expend the moneys realized from such sale in improving and preserving the particular burial-ground from the sale of whose lots the moneys were received.

§ 195. **Burial-grounds, when to belong to town.**—The title to every lot or piece of land which shall have been used by the inhabitants of any town in this state as a cemetery or burial-ground for the space of fourteen years shall be deemed to be vested in such town, and shall be subject, in the same manner as other corporate property of towns, to the government and direction of the electors in town meeting.

ARTICLE IX.

THE MUNICIPAL DEBT LAW.

SECTION 210. Annual reports to board of supervisors.

211. Form of reports.

212. Publication of reports.

213. Duplicate reports.

214. Cancellation of bonds.

§ 210. **Annual reports to board of supervisors.**—When a town has a public debt, consisting of bonds, or other evidence of debt issued on the credit of the town, the supervisor thereof, shall make a report to the board of supervisors of the county, at every annual session thereafter, of the amount of such indebtedness.

§ 211. **Form of reports.**—Such report shall be in tabular form

specifying the different acts under which the bonds or debts were issued, with the rate of interest thereon, the amount unpaid at the time of the election of the supervisor, and the amount of debt paid at the date of his report, and coming due during his term of office.

§ 212. **Publication of report.**—The report so made, shall be published in the annual report of the proceedings of the board of supervisors.

§ 213. **Duplicate reports.**—The supervisor shall also, at the expiration of his term of office, at the annual town meeting, make and present thereto, a duplicate copy of such report to the board of supervisors, including and adding thereto, the amount of bonds issued, and the amounts and interest paid, since the date of the report up to the day and date of his term of office, duly attested before a justice of the peace of his town, and which report shall be filed in the town clerk's office of the town, subject to the inspection, by an elector thereof.

§ 214. **Cancellation of bonds.**—All such bonds and coupons thereof paid, shall be cancelled by the town board of the town, at a meeting thereof to be held for that purpose, within ten days previous to the annual town meeting; and a record thereof shall be filed, signed by the board, in the office of the clerk of the town.

ARTICLE X.

TOWN BUSINESS IN COUNTIES OF MORE THAN SIX HUNDRED THOUSAND INHABITANTS.

SECTION 220. Town officers.

- 221. Election of officers.
- 222. Term of office.
- 223. Town meetings.
- 224. Ballots of town meetings.
- 225. Full terms and vacancies.
- 226. Designations; full term or vacancy.
- 227. Town meeting, business of.
- 228. Fiscal year; meeting of town board.
- 229. Canvass; inspectors.
- 230. Canvass in case no justice present.
- 231. Registry of town meetings.
- 232. Resignations.
- 233. Vacancies.
- 234. Official oath and undertaking.
- 235. Taxes and assessments.
- 236. Excise moneys.

§ 220. **Town officers.**—The town officers of each town in counties containing six hundred thousand or more inhabitants, as determined by the last preceding federal or state enumeration of the inhabitants taken prior to any election of town officers, shall be one supervisor, one town clerk, four justices of the peace, three assessors, one or three commissioners of highways, three commissioners of excise, three town auditors, one collector and five constables; also three inspectors of election for each election district, and such other officers as are or may be provided by or in pursuance of law.

Am'd by chap. 887 of 1898. In effect January 1, 1894.

§ 221. **Election of officers.**—The said town officers shall be elected by ballot by the electors of each town at the annual town meeting held next preceding the general election at which they would have been elected under the present existing laws, with the exception of the collector, who shall be elected at the annual town meeting next following such general election.

Am'd by chap. 887 of 1898. In effect January 1, 1894.

§ 222. **Term of office.**—The supervisor shall hold office for the term of two years; the town clerk, assessors, commissioners of highways, commissioners of excise and town auditors, each for the term of three years; the justices of the peace, four years; constables, five years; inspectors of election, one year, all from the first day of January, and the collector three years from the first day of May, next succeeding their elections, respectively. When three or more incumbents are required for any one of said offices, the term of which is three or more years, one candidate shall be elected for the regular or full term in each year.

Am'd by chap. 887 of 1898. In effect January 1, 1894.

§ 223. **Town meetings.**—The annual and special town meetings in each of said towns shall be held in the several election districts thereof, under the direction of the inspectors of election, as the presiding officers, beginning at the hour appointed for the opening of the polls at the next preceding general election. The town clerk shall provide the requisite number of printed official ballots, which shall be the same for each district, and the elections at such meetings shall be conducted, with the aid of ballot clerks and poll clerks, in the same manner as the general elections, so far as practicable. Upon the completion of the canvass, the certified result, together with the books, papers and records, shall forthwith be filed by the inspectors with the town clerk.

Am'd by chap. 887 of 1898. In effect January 1, 1894.

§ 224. **Ballots at town meetings.**—The names of all the town officers to be voted for by any elector at such town meeting shall

be placed upon one ballot, which shall be indorsed with the word "town;" such ballot to contain the names of not more than two candidates for inspectors of election for each of the election districts in the town, designating in connection with such names the districts for which the said several candidates are to be chosen, and if said designation is omitted, or more than two names for inspectors shall appear, the vote for such inspector shall not be counted.

Am'd by chap. 887 of 1893. In effect January 1, 1894.

§ 225. **Full terms and vacancies.**—When more than one justice of the peace, assessor, commissioner of excise, commissioner of highways, town auditor or constable are to be chosen in any of said towns, each elector shall designate upon his ballot the person intended for the full term and for a vacancy, and if there are two or more vacancies they shall be designated as the longer and the shorter, or the longer, shorter and shortest vacancy, as the case may be, and each person having the greatest number of votes with reference to each designation shall be deemed duly elected for the term or vacancy designated.

Am'd by chap. 887 of 1893. In effect January 1, 1894.

§ 226. **Designations; full term or vacancy.**—A ballot containing the name of one candidate only, without designation, shall be counted as for the full term. A ballot voted with the names of two or more candidates for such office, but without such designation, one of said candidates being at the time an incumbent of the office for a term not then expired, shall be counted as a vote for said candidate for the regular term; and if there be but one vacancy to be filled, and the name of only one other candidate on such ballot, without such designation, the same shall be counted for such other candidate for such vacancy. In all other cases a ballot containing the names of two or more candidates for any one of said offices, without designating the term, shall not be counted.

Am'd by chap. 887 of 1893. In effect January 1, 1894.

§ 227. **Town meeting, business of.**—The town business which requires a vote of the people otherwise than by ballot shall be commenced at twelve o'clock noon of the day of the annual town meeting, and completed without adjournment. All questions upon motion made at town meetings not required by law to be by ballot, shall be determined by the majority of the electors of the town voting, and the inspectors of each district shall ascertain the result by counting, in such manner as they may deem most expedient and practicable, and certify the same, to the board of town canvassers at the time of making their return of the votes cast for town officers.

Am'd by chap. 887 of 1893. In effect January 1, 1894.

§ 228. **Fiscal year; meeting of town boards.**—The fiscal year in such towns shall begin on the first day of January and terminate on the thirty-first day of December. The board of town auditors shall meet annually for the purpose of auditing the accounts of town

officers at the office of the town clerk on the thirtieth day of December, at two o'clock in the afternoon, except when the same shall occur on Sunday, in which case such meeting shall be held on the twenty-ninth; and all town officers or boards of town officers who receive or disburse any moneys belonging to the town shall account for the same, under oath, to said board, annually, at such meeting.

Am'd by chap. 887 of 1893. In effect January 1, 1894.

§ 229. **Canvass; inspectors.**—It shall be the duty of the justices of the peace to attend at the office of the town clerk on the second day after each town meeting, at ten o'clock in the forenoon, as a board of town canvassers, and canvass the votes of the several election districts, and the town clerk shall act as clerk in such canvass, and shall enter in his record a statement of the same, and of the number of votes for each candidate in the several districts, and of the officers elected, which record shall be signed by him and by the justice or justices acting as such canvassers. From the two persons who shall have the highest number of votes next to the two inspectors elected for each election district, the said justice or justices shall thereupon select the third inspector for such district, who shall also be entered in such record.

Am'd by chap. 887 of 1893. In effect January 1, 1894.

§ 230. **Canvass in case no justice present.**—The justice or justices of the peace present at the time and place so appointed shall proceed with the canvass, and if none shall be present, the town clerk shall appoint some suitable person, who shall be sworn by him faithfully to perform such duty; and if the town clerk be absent, the justice or justices present shall appoint a suitable person in his place, who shall be sworn in like manner, and the person so appointed shall possess all the powers and be subject to all the duties and responsibilities of the officers in whose place they are appointed. If any of the returns shall not have been received, or shall be required to be returned to the inspectors for correction, an adjournment may be taken for the purpose of procuring the proper returns.

Am'd by chap. 887 of 1893. In effect January 1, 1894.

§ 231. **Registry at town meeting.**—The registry of the last preceding general election shall be the registry for such town meeting, and the board of registry in each district shall meet on one day, from nine o'clock in the forenoon until nine o'clock in the evening, not less than three nor more than fifteen days preceding each annual or special town meeting, of which meeting they shall give ten days' notice, by posting in ten or more public places in the district, for the purpose of completing the same, and at said meetings they shall place upon the registry the names of the voters of such district whose names do not appear thereon.

Am'd by chap. 887 of 1893. In effect January 1, 1894.

§ 232. **Resignations.**—The supervisor and justices of the peace of each town or a majority of them may accept the resignation of any town officer, and make appointments to fill vacancies that may be occasioned thereby, or by death, removal from town, refusal to serve, failure to qualify or otherwise, and shall file the certificates thereof in the office of the town clerk.

Am'd by chap. 887 of 1893. In effect January 1, 1894.

§ 233. **Vacancies.**—The persons who may be appointed to fill vacancies in town offices shall serve until the second day following the next annual town meeting, or until their successors shall be duly elected and qualified; but no person appointed as justice of the peace to fill the vacancy of an officer whose term will expire on the thirty-first day of December next thereafter shall hold office by virtue of such appointment after such last-mentioned day. Persons who may be elected to fill vacancies in town offices shall serve during the remainder of the unexpired term.

Am'd by chap. 387 of 1893. In effect January 1, 1894.

§ 234. **Official oath and undertaking.**—Each of said town officers, except justices of the peace and inspectors of election, shall, before the commencement of the term for which they were elected or appointed, or if appointed to fill vacancies, within ten days after their appointment, severally take the constitutional oath of office, and file the same in the office of the town clerk, and also, within the same time, file therein the undertakings, if any, which are required to be given by them for the faithful discharge of their duties. The undertaking of collectors shall be given in the manner and within the time required in other towns of this state. If the collector or any other of such officers shall fail, neglect, refuse or omit to comply with the provisions of this section, a vacancy shall thereupon be created, which shall be filled by appointment in the manner prescribed by this article; but none of the provisions of this section shall be deemed to extend to the bonds or undertakings of supervisor for school moneys, or other special purposes, which bonds or undertakings may be given by him after entering upon the duties of his office, in the manner now provided by law.

Am'd by chap. 387 of 1893. In effect January 1, 1894.

§ 235. **Taxes and assessments.**—The town board of each of said towns, consisting of the supervisor, town clerk and justice of the peace, shall have power to hire, occupy and use suitable office room within the county for the transaction of business in connection with the levying and collection of the taxes and assessments of such town, and to adopt measures for the preparation and purchase, from time to time, and the care and preservation of the necessary books, maps, assessment-rolls and other papers connected therewith, and to prescribe and regulate the powers and duties of the assessors of such town so far as may not be inconsistent with existing laws, and to employ such persons as may be required to assist in securing correct and equitable valuations and assessments of property and for the effectual collection of the taxes therein. The compensation to be paid to the assessors for their services shall be fixed by the board of supervisors at rates not less than those now paid, and the expenses incurred under this section shall be a town charge, and raised and paid as other town expenses.

Am'd by chap. 387 of 1893. In effect January 1, 1894.

§ 236. **Excise moneys.**—All excise money shall be applied to and expended for such town purposes as the said town board may direct, except such portion thereof, if any, as shall be required to be paid to any public institution by special or local laws.

Am'd by chap. 387 of 1893. In effect January 1, 1894.

ARTICLE XI.

REPEALING AND OTHER CLAUSES.

SECTION 240. Laws repealed.

241. Saving clause.

242. Construction.

243. When to take effect.

Schedule.

§ 240. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed. Such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed.

§ 241. **Saving clause.**—The repeal of a law or any part of it specified in the annexed schedule shall not affect or impair any act done or right accruing, accrued or acquired, or penalty, forfeiture or punishment incurred prior to the time when this act takes effect, under or by virtue of the laws so repealed, but the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such laws had not been repealed; and all actions or proceedings, civil or criminal, commenced under or by virtue of the laws so repealed and pending February twenty-eighth, eighteen hundred and ninety-one, may be prosecuted and defended to final effect in the same manner as they might under the laws then existing unless it shall be otherwise specially provided by law.

§ 242. **Construction.**—The provisions of this chapter, so far as they are substantially the same as those laws existing on February twenty-eighth, eighteen hundred and ninety-one, shall be construed as a continuation of such laws, modified or amended, according to the language employed in this chapter, and not as new enactments; and references in laws not repealed, to provisions of law incorporated into this chapter and repealed, shall be construed as applying to the provisions so incorporated. Nothing in this chapter shall be construed to amend or repeal any provision of the Penal or Criminal Code.

§ 243. **When to take effect.**—This chapter shall take effect on the first day of March, eighteen hundred and ninety-one, except in towns in which the annual town meeting for eighteen hundred and ninety-one shall be held on or subsequently to March first, in which towns it shall take effect May first, eighteen hundred and ninety-one.

SCHEDULE OF LAWS REPEALED.

Revised Statutes	Part I, chapter 5, title 4, art. 4.....	Sections 35 and 37 to 46 inclusive.
Revised Statutes.....	Part I, chapter 11, titles 1, 2, 3, 4, 5, 6 and 7...	All except sections 2 to 21, inclusive, in title 7.
Revised Statutes.....	Part I, chapter 20, title 12.	All.
Revised Statutes.....	Part I, chapter 20, title 14.	Sections 2 and 4.
Revised Statutes.....	Part I, chapter 20, title 15.	All except sections 12 to 21, inclusive.

LAWS OF	Chapter	Sections.
1829.....	356.....	All.
1830.....	289.....	2.
1830.....	290.....	All.
1830.....	320.....	3.
1831.....	52.....	All.
1832.....	109.....	All.
1832.....	222.....	All.
1833.....	270.....	All.
1834.....	16.....	All.
1838.....	172.....	All.
1838.....	261.....	All.
1839.....	339.....	All.
1840.....	305.....	All.
1845.....	180.....	1, 2, 3, 4, 23, 24, 25, 26 and 27.
1845.....	244.....	All.
1847.....	197.....	All.
1847.....	455.....	1, 2, 13 and 24.
1847.....	490.....	2.
1848.....	343.....	All.
1850.....	319.....	All.
1859.....	107.....	All.
1859.....	476.....	All.
1860.....	58.....	All.
1863.....	172.....	All.
1866.....	30.....	1.
1866.....	78.....	All.
1866.....	534.....	All.
1866.....	540.....	All.
1866.....	832.....	All.
1868.....	721.....	1.

LAWS OF	Chapter	Section
1869.....	493.....	All.
1870.....	242.....	2.
1870.....	552.....	All.
1871.....	635.....	All.
1872.....	377.....	All.
1872.....	513.....	All.
1872.....	788.....	All.
1873.....	46.....	All.
1873.....	722.....	All.
1874.....	173.....	All.
1874.....	444.....	All.
1874.....	543.....	All.
1875.....	166.....	All.
1878.....	107.....	All.
1879.....	67.....	All.
1879.....	267.....	All.
1881.....	123.....	All.
1881.....	391.....	All.
1881.....	564.....	All.
1883.....	122.....	All.
1884.....	456.....	All.
1885.....	82.....	All.
1895.....	390.....	All.
1886.....	210.....	All.
1886.....	259.....	All.
1886.....	461.....	All.
1886.....	585.....	All.
1887.....	108.....	All.
1887.....	704.....	All.
1888.....	465.....	All.
1888.....	488.....	All.
1889.....	135.....	All.

Supplemental Acts of Interest to Towns.

LAWS OF 1889, CHAP. 453, AS AMENDED.

AN ACT in relation to local improvements in towns having a total population of four thousand inhabitants, exclusive of any incorporated city or village therein, and adjoining a city having a population of over one million.

APPROVED by the Governor June 12, 1889. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. In any town in this state having a total population of over four thousand inhabitants, exclusive of those residing within the corporate limits of any incorporated city or village in said town, and adjoining a city having a population of more than one million inhabitants, the supervisor is hereby authorized to appoint five commissioners of local improvements, by a writing signed by him and filed in the town clerk's office of said town. The commissioners so appointed shall be residents, freeholders, and electors in such town and shall hold no other office therein. The said persons so appointed shall be a body corporate and shall be known as the "commissioners of improvements" of such town, in which name they may sue and be sued in any court of competent jurisdiction.

§ 2. The said commissioners of improvements shall have power to examine into and consider all matters relative to supplying such town, or any portion thereof outside the corporate limits of any incorporated village, with pure and wholesome water, and to the opening, working, repairing, improving, and lighting of highways, roads, streets, and public places therein, and for that purpose they shall have power to employ engineers, surveyors, and such other persons as may be necessary, and, from time to time, adopt such plans for such purposes as shall be deemed most feasible, advantageous, and beneficial to said town, and they shall have power and authority over any and all highways, roads, streets, and public places in such town outside of the corporate limits of any incorporated city or village, and may change the grade thereof, and lay water pipes through or under any of the same and erect street lamps or other instruments for lighting the same thereon.

Am'd by chap. 417 of 1893.

§ 3. Each of the commissioners appointed as aforesaid shall, within twenty days after receiving notice of his appointment, and before entering upon the discharge of duties of his office, execute and deliver to the supervisor of the said town a bond, in the penalty of ten thousand dollars, with sufficient sureties, to be approved by the board of town officers, conditioned for the faithful performance of his duties, and, within thirty days after the such appointment, the said commissioners shall meet and organize by the election of one of their number as president of said commissioners of improvements, one of their number as secretary thereof, and one of their number treasurer. The said officers shall hold their respective offices for one year, and until their successors shall be chosen. Whenever a vacancy shall occur in the said commissioners through the death, resignation, or refusal to act of any of said commissioners the remaining commissioners shall be empowered to appoint a suitable person or persons, to fill any place vacated as aforesaid, and in case the said remaining commissioners shall fail or neglect to fill any such vacancy for a space of sixty days, the supervisor of said town shall have the power to fill the same by appointing some suitable person or persons; in every case the person or persons appointed to fill any such vacancy or vacancies shall be an elector and freeholder of said town, and before entering upon his duties shall execute and deliver the bond hereinbefore provided, and thereupon shall have vested in him or in them, the same powers and authority as if originally appointed under this act. No commissioner shall receive any compensation for his services under this act, nor shall be interested in any contract entered into by said commissioners.

§ 4. Within three months after the appointment of said commissioners, and at any time thereafter not to exceed twice in any one year, they shall certify in writing the nature of the improvements to be made and the estimated cost thereof, which said certificate shall be filed in the office of the town clerk of such town. Within ten days after the said certificate shall be filed, the town clerk shall give notice of a special election to vote upon the question of expending said sum of money for such improvements. Said notice of such election shall be given by posting not less than twelve printed notices in conspicuous places in said town, not less than ten days nor more than twenty days prior to the time of holding the same, and by publishing the same notice in a newspaper printed in the said town, if any, and if none, then in two or more newspapers published in the county in which said town is situated. Said election shall be held in said town at the town hall or in case there shall be no town hall in said town at such place as shall be designated by the said town clerk in said notices,

and the polls shall be open from two o'clock in the afternoon until sunset. At such election no person shall be permitted or entitled to vote unless he shall be a qualified elector of the said town residing outside of the corporate limits of any incorporated city or village in said town, and he shall have been assessed for real or personal property upon the last preceding assessment-roll of said town, and he is still the owner thereof, or he shall have subsequently acquired title to real estate in said town outside of the corporate limits of any incorporated city or village, and, if such real estate shall have been acquired by purchase, that his conveyance thereof shall have been duly recorded, or the husband of a woman who is the owner of and assessed for real or personal estate as aforesaid. At such election the inspectors shall be the supervisor, town clerk, and one of the justices of the peace of said town, to be designated by the aforesaid commissioners. The ballots to be voted at said election shall contain the words "for raising money for local improvements," or "against raising money for local improvements." The said inspectors of such election shall certify the result thereof in writing, and the same shall be entered at large in the records of said town by said town clerk, and a copy of said record shall be delivered to said commissioners. In case the majority of the ballots cast shall contain the words "for raising money for local improvements," the said commissioners shall be authorized to expend said money for said purpose specified in said certificate, and the same shall be obtained from the sale of the bonds of such town as hereinafter provided.

Am'd by chap. 417 of 1893.

§ 5. The said commissioners of improvements shall have power to contract for, and purchase, and take by deed or other instrument, in the name of such town, all lands, tenements, hereditaments, rights, or privileges whatever, which may be required for any of the purposes of this act, and to contract for the execution of the work or any portion thereof, and the supply of necessary materials, or of any portion thereof; and the commissioners and their agents and employes are authorized to enter upon any land or water for the purpose of making surveys, and to agree with the owner or owners of property, real or personal, as to the amount of compensation to be paid such owner, and in case said commissioners shall be unable to agree with any person or corporation owning or having an interest in any property, real or personal, or any rights or interests therein, required for any of the purposes of this act, the said commissioners may, in their corporate name, acquire such lands, rights, interests or easements, in the manner and by the same proceedings provided in and by chapter one hundred and forty of the laws of eighteen hundred and fifty, so far as the

same may be applicable. All property, rights, or easements thus acquired, shall vest in and become the property of such town.

§ 6. All moneys that may be required to make such improvements and to perform such work, and the expenses of the said commissioners in connection therewith, shall be borrowed upon the credit of the said town upon the bonds thereof, and for that purpose, the supervisor of said town shall, upon the requisition of the said commissioners of improvements, issue bonds of said town, which shall be signed by him as such supervisor and countersigned by the town clerk and by the chairman of said commissioners, and deliver the same to the treasurer of said commissioners, from time to time, to the amount that it shall be certified by said commissioners of improvements, has become due for work done or materials furnished upon said work and improvements, and to the amount that it shall likewise be certified that contracts for such work or materials have been entered into by said commissioners, but the amount to be borrowed by any such town for such improvement, shall not exceed in the aggregate the sum of three hundred and fifty thousand dollars. The said commissioners shall sell the bonds received by the said treasurer, at not less than the par value thereof and apply the proceeds thereof to the payment of expenses incurred by them under this act for the purposes herein provided for.

Am'd by chap. 417 of 1893.

§ 7. The bonds issued for the payment of the expenses as aforesaid shall be in amounts not less than five hundred dollars each and shall bear interest not to exceed four per centum per annum, and the first five thousand dollars secured by said bonds shall become due and payable not later than on the first day of May ten years after the date of said bonds, and not less than five thousand dollars secured by said bonds shall become due on the first day of May in each and every year thereafter, until the whole amount thereof shall have become due, and the interest on said bonds shall become due and payable on the first days of November and May in each year, until the principal of said bonds shall become due and payable, respectively; and a record of all such bonds so issued shall be kept by the town clerk of said town, in a book especially provided for that purpose, showing the number, date, and amount of each bond, the rate of interest and the date when the same is due and payable, the amounts of principal and interest paid and unpaid thereon, and all details relating to the issue, sale, and redemption thereof.

§ 8. There shall be annually levied and assessed upon the taxable property of the said town outside of the corporate limits of any incorporated city or village, by the board of supervisors of the county in which it is located, and collected, in the same manner that other town

charges are levied, assessed, and collected, such sums of money as may be necessary to pay the interest on the said bonds, and the principal thereof, as the same becomes due, and said moneys when collected shall be paid by the receiver of taxes or collector of said town to the supervisor thereof, and by said supervisor applied to the payment of the interest due on said bonds and the principal thereof as the same becomes due; and the said supervisor shall, at the time of making his annual account to the board of town auditors of said town, make a true and full account of all moneys received by him for the purpose aforesaid, and deliver to said board of auditors vouchers for all moneys expended by him for the payment of the principal and interest of the aforesaid bonds, and a copy of the said report of the said supervisor shall be entered at length upon the records of the town by the town clerk thereof.

§ 9. The said commissioners of improvements shall annually make and deliver to the board of town auditors a full and detailed account of all moneys received by them from the sale of the bonds as aforesaid, and the manner in which it has been expended, with vouchers for the payment thereof, which said account shall be verified by two of the officers of said corporation, and, upon the completion of their work, or the expiration of their term of office, the said commissioners shall make and deliver a final account in the same manner, and deliver to the said board of town auditors any moneys or property that may be in the possession of the said commissioners belonging to the said town. The accounts presented by the commissioners shall be entered upon the minutes of the town by the town clerk thereof, and if at the final accounting the said accounts shall be correct, the board of town auditors may, by resolution, authorize the supervisor to cancel the bonds given by the said commissioners.

§ 10. This act shall apply to any of the towns in this state mentioned in section one, notwithstanding the provisions of any private or local act affecting any such town.

§ 11. Such supervisor is hereby authorized to appoint five commissioners of sewers, by a writing signed by him and filed in the office of the town clerk of said town. The commissioners appointed shall be residents, freeholders and electors in such town, shall be a body corporate and shall hold no other office therein. The persons so appointed shall be known as the "sewer commissioners" of such town, in which name they may sue and be sued in any court of competent jurisdiction.

Am'd by chap. 417 of 1893.

§ 12. Each of the commissioners appointed as aforesaid shall, within twenty days after receiving notice of his appointment, and

before entering on the duties of his office, execute and deliver to the supervisor of said town a bond, in the penalty of ten thousand dollars with sufficient sureties, to be approved by the board of health of said town, conditioned for the faithful performance of his duties, and within thirty days after such appointment the said commissioners shall meet and organize by the election of one of their number as president of said sewer commissioners, one of their number as secretary thereof, one of their number as treasurer. The said officers shall hold their respective offices during the pleasure of said sewer commissioners. Whenever any vacancy shall occur in the office of said commissioner the remaining commissioners shall have power to elect by ballot members to fill vacancies in said office of sewer commissioner. The vote of three commissioners shall be required to elect and fill such vacancy. The board of health of such town shall have the power by the vote of four members in favor thereof, to remove said commissioners or either of them on charges of misconduct or neglect of duty in office and proof thereof, first giving them or him, notice of such charges, and an opportunity to be heard in defense of the same. In case the number of commissioners shall become less than three, or any vacancy therein shall remain unfilled for a space of twenty days, the supervisor of said town shall fill the same in the manner in which the commissioners were first appointed. In every case the person or persons appointed to fill any such vacancy or vacancies shall be a resident, freeholder and elector in such town, and before entering upon his duties shall execute and deliver to the supervisor the bond hereinbefore provided for and thereupon shall have the same power and authority as if originally appointed under this act. The said commissioners shall receive such compensation as the said board of health shall fix not to exceed three dollars per day for each commissioner for each and every day actually employed by him in the duties of his office.

Am'd by chap. 417 of 1898.

§ 13. The said sewer commissioners may employ such assistants as may be necessary and shall cause to be made preliminary surveys and plans for a system of sewerage in and for said town, and an approximate estimate of the expense thereof, which said survey, plans and estimate shall be filed with their secretary for the inspection of all persons interested. The said survey and plans may be altered and changed from time to time and when completed shall be submitted to the state board of health for their approval. When the said plans have been approved by the state board of health the said commissioners shall proceed to construct the same in accordance therewith, unless said

plans shall be subsequently modified or changed by said commissioners with the consent and approval of the state board of health.

Am'd by chap. 417 of 1893.

§ 14. Said commissioners shall advertise for proposals for constructing said sewers and furnishing materials for the same under one entire contract or in parts or in sections under several contracts as they shall deem for the best interests of the said town at least once a week for not less than two weeks successively, in a newspaper published in said town, and for a period of not less than six days in at least one daily paper printed in the city of New York. The said commissioners shall require a bond of each party who shall submit proposals, in such amount and with such sureties, as they shall determine, to be submitted with such proposals conditioned that the party making such proposals shall enter into a contract for furnishing the labor or materials for and constructing such sewers and drains or the portion thereof which such proposals are asked and submitted according to the plans and specifications at his or their proposal or bid, and that he or they will furnish such security as said commissioners shall require to be furnished for the faithful performance of his or their contract, and also for the indemnifying and saving harmless the said town or the said commissioners from any and all expenses and damages as hereinafter specified. And said commissioners shall require any party with whom they shall contract for doing said work, or furnishing said materials, or any part thereof, to give sufficient security to be approved by them, for the faithful performance of such contract or contracts and to indemnify and save harmless the said town and the said commissioners from any and all expense or damage for which it or they may become liable or put to by reason of any negligence on the part of said contractors, his or their assignees, his or their agents, servants or employees, or from improperly guarding any and all excavations, trenches, accumulations or obstructions caused by or made in the course of the construction of the sewers and drains aforesaid, or the portion thereof covered by such contractor's contracts, or from neglecting or refusing to properly restore the surface of any highway, street, alley, lane or place through which said sewers or drains shall have been laid or constructed to a proper and safe condition. The said commissioners shall have the power when, for any reason, they shall deem such course advantageous to the interests of the said town, to reject any and all proposals and bids made to them, and may contract with other than the lowest bidder for such material and work, or any part thereof, and may, whenever necessary, readvertise for the same.

Am'd by chap. 417 of 1893.

§ 15. For the purpose of constructing such sewers the commissioners may, in the name of the said town, enter upon, take, use and occupy any rights of the public in and to any of the streets, highways, roads, alleys, lanes, navigable waters and streams in said town and may enter upon, take and appropriate, by purchase for said town as hereinafter provided, any lands, real estate, streams, easements or rights which may be necessary for the purpose aforesaid, which land, real estate, streams, easements and rights shall henceforth belong to said town. And if it become necessary to alter the grade of any road to carry into effect the system of sewers or drains, the commissioners shall have the power to make such changes and to make payment of any damage to private property which may be thereto occasioned.

Am'd by chap. 417 of 1898.

§ 16. It shall be a misdemeanor for either of said commissioners, or for any clerk, engineer, superintendent or inspector, appointed or employed by them, to be in any manner interested, directly or indirectly, in furnishing any material or labor for the construction of the sewers herein provided for, or in any contract which said commissioners shall make.

Am'd by chap. 417 of 1898.

§ 17. In case the said commissioners shall be unable to agree with any person or corporation owning or having an interest in any land, stream, easement or right, for the purchase of the same, or of any right therein, required for the purpose of this act, the said commissioners may, in the name of the said town, acquire such land, easement, right or use in the same manner and by the special proceedings prescribed in and by Code of Civil Procedure and said town shall become seized in fee of the lands, and of the easements, rights and interests so taken and appropriated.

Am'd by chap. 417 of 1898.

§ 18. Said commissioners shall have the maintenance and management of all the sewers. It shall be their duty to make by-laws and regulation for the protection, use and operation of such system of sewers and the several parts thereof, and to prescribe penalties for the violation of such by-laws, rules and regulations, and to prosecute such violations in the name of the said commissioners; and all penalties collected therefrom shall be paid to the treasurer of said commissioners, and shall be accounted for by him in the same manner as other funds coming into his hands as such treasurer.

Am'd by chap. 417 of 1898.

§ 19. All moneys that may be required to construct such sewers and the expenses of the said commissioners, in connection therewith, shall be borrowed upon the credit of the town, upon the bonds thereof; and

SUPPLEMENTAL ACTS OF INTEREST TO TOWNS.

for that purpose the supervisor of said town shall, upon the requisition of the said sewer commissioners, issue bonds of said town which shall be signed by him as such supervisor and countersigned by the town clerk and by the chairman of said commissioners, and deliver the same to the treasurer of said commissioners, from time to time to the amount that it shall be verified by such sewer commissioners has become due for work done or materials furnished or contracts entered into by them under this act. The said commissioners shall sell the bonds received by the said treasurer at not less than the par value thereof, and apply the proceeds thereof to the payment of the expenses incurred by them under this act.

Am'd by chap. 417 of 1893.

§ 20. The provisions of sections seven and eight of this act shall apply to the bonds issued upon the requisition of said sewer commissioners for the payment of the costs of the said sewers and the expenses incurred by said commissioners in connection therewith, and to the payment of the interest and principal of such bonds.

Am'd by chap. 417 of 1893.

§ 21. The said sewer commissioners shall annually make and deliver to the town auditors the report as provided for in section nine of this act and the provisions of said section nine shall apply in all respects to the accounts of the said sewer commissioners and the same are hereby made applicable thereto.

Am'd by chap. 417 of 1893.

§ 22. This act shall take effect immediately.

LAWS OF 1890, CHAP. 223.

AN ACT to authorize towns to raise money to defray the expenses of the proper observance of memorial or decoration day.

APPROVED by the Governor April 20, 1890. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. It shall be lawful for the electors of any town in this state, at any regular town meeting, to vote by ballot any sum of money, not exceeding one hundred dollars in any year, to be determined by a majority of all the electors voting at such town meeting, for the purpose of defraying the expense of the proper observance of memorial or decoration day; which amount shall be assessed, levied and collected in the same manner as other expenses of said town are assessed, levied and collected, and shall be paid to the supervisor of such town and be disbursed by him in such manner as the electors of

such town may direct, upon vouchers properly receipted and audited by the town board of such town; except that in any town in which there may be a post of the grand army of the republic, such post may direct the manner and extent of such observance, and the supervisor shall pay the expense thereof upon the order or orders of the commander and quartermaster of such post, which orders shall be his vouchers for such payment; and in case there may be two or more posts of the grand army of the republic in any such town, the commanders and quartermasters of such posts, by concurrent action; shall direct the supervisor of such town what proportion of such money so raised shall be expended by each of such posts, which proportion shall be paid by such supervisor upon the order or orders of the commander and quartermaster of each of such posts.

§ 2. This act shall take effect immediately.

LAWS OF 1890, CHAP. 291.

AN ACT to authorize towns to raise additional money for highway purposes and to prevent snow blockade of highways by the substitution of wire for other fences along the same.

BECAME a law without the approval of the Governor, in accordance with the provisions of article four, section nine of the Constitution, May 6, 1890. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. It shall be lawful for the commissioner of highways of any town in this state to apply in open town-meeting for a vote authorizing such sum, not to exceed three hundred dollars in any one year, to be raised, in addition to the sums now allowed by law, as they may deem necessary for the purpose specified in the third section of this act. The same notice shall be given by the commissioners of their intention to apply for the raising of such additional sum as is now required by law for the raising of money for roads and bridges, above the amount of two hundred and fifty dollars.

§ 2. If the town-meeting shall, by their votes, determine that a sum shall be raised for the purpose specified in this act, the proceedings for certifying and levying, collecting and paying the same shall be in all respects the same as now provided by law for the raising and paying over of money for roads and bridges, above the amount of two hundred and fifty dollars.

§ 3. The commissioners of highways shall expend the money raised under the provisions of this act in the purchase of fence wire, in the

SUPPLEMENTAL ACTS OF INTEREST TO TOWNS.

same manner as other supplies for highway purposes are by law required to be purchased, and no part of such money shall be expended, except for the purchase of fence wire as aforesaid; and the said commissioners are hereby authorized to contract with the owners of the lands lying along the highways of their respective towns, at such points as are liable to snow blockade, for the removal of the fences now standing along the boundaries of such highways, and the replacing of such fences with wire fences. And they may contract to deliver to said landowners, fence wire to be used in the construction of such fences, without charge to said landowners, at the place of purchase, but they shall not agree to pay any part of the cost of the removal or construction called for by said contracts, or to make any payment to said land owners as a compensation for the construction of fences.

§ 4. The fences to be built under the provisions of this act, shall be of four strands of wire with a substantial bar of wood at the top; and the construction of said fences, and the size of said top bars and of the posts and supports of said fences, and their distance apart shall be such as said commissioners shall prescribe. Whenever such fence or fences shall become so out of repair as to be dangerous to animals passing along the highways, it shall be the duty of the owner or owners of said fence or fences to immediately repair or remove the same.

§ 5. Whenever the commissioner of highways of any town shall contract for the removal of any fence, under the provisions of this act, they shall file in the office of the town clerk of said town, a description of that portion of the highway to which said contract shall apply, and thereafter, it shall not be lawful for any person to replace the fence so contracted to be removed, with any fence liable to cause the drifting of snow.

§ 6. This act shall take effect immediately.

LAWS OF 1890, CHAP. 332.

AN ACT to authorize the supervisor, justices of the peace and town clerk of any town having a population of more than three thousand, to license and regulate all public hacks, vehicles, venders, shows, concerts and public amusements in such town.

APPROVED by the Governor May 15, 1890. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The supervisor, justices of the peace and town clerk of any town having a population as shown by the last federal or state

enumeration, of more than three thousand inhabitants residing outside of an incorporated city or village, are hereby authorized and empowered to license and regulate all public hacks, vehicles, venders, shows, concerts and public amusements in such town, outside of an incorporated city or village, and to fix the fee to be paid for the persons so licensed to said officers, which moneys so collected shall be paid over to the supervisor of such town within thirty days after the receipt of the same, and the said supervisor shall pay the same over to the commissioners of highways of such town, to be applied to the necessary repairs of the roads and highways of such town, after deducting the necessary expenses for carrying out the provisions of this act.

§ 2. The said officers shall have power to make and establish such rules, regulations and ordinances not inconsistent with the laws of this state, as they may deem necessary for the proper regulation of such hacks, vehicles, venders, shows, concerts and public amusements. Such rules, regulations and ordinances shall be posted in at least ten public places in said town.

§ 3. Said officers shall have power to and may prescribe the penalty for a violation of any rule, regulation or ordinance which they may establish, which penalty shall be recovered in the manner hereinafter prescribed, and when recovered shall be paid over to the supervisor of such town within thirty days after the receipt of the same, and said supervisor shall pay over such moneys so received to the same parties as the fees received from licenses are hereinbefore provided for. Such penalty shall in no case exceed the sum of twenty-five dollars.

§ 4. All persons violating any rule, regulation or ordinance established by said officers may be proceeded against summarily before any justice of the peace of such town, such proceedings to be commenced by warrant upon proper proof and shall be continued and conducted in the same manner as criminal proceedings are now conducted in cases triable before such justices or either of them as a court of special sessions, but all persons charged with such offense shall have the right to waive an examination or to elect to go before any higher court or tribunal.

§ 5. Such justices shall have authority to fine any person offending as aforesaid, a sum equal to the penalty prescribed by the ordinances, and may sentence such person, in default of payment, to be confined in the county jail for a period not exceeding ten days and not exceeding the penalty prescribed as aforesaid, and all laws relating to trials by courts of special sessions in such town not inconsistent here-

* So in the original.

with in the proceedings hereby authorized, the offense shall be deemed to be sufficiently described by stating the ordinance and the section thereof claimed to be violated.

§ 6. This act shall take effect immediately.

LAWS OF 1890, CHAP. 420.

AN ACT relating to accounts of overseers of the poor, and the action to be taken upon such accounts by the boards of town auditors in the various towns of the state.

APPROVED by the Governor May 24, 1890. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The overseers of the poor in the various towns of the state who receive and expend money for the relief and support of the indigent poor in their respective towns shall keep books to be procured at town expense in which they shall enter the name, age, sex and native country of every poor person who shall be relieved or supported by them, together with a statement of the causes, either direct or indirect, which shall have operated to render such person a pauper so far as the same can be ascertained. They shall also enter upon such books a statement of all moneys received by them, when and from whom and on what account received, and of all moneys paid out by them, when and to whom paid and on what authority; also a statement of all debts contracted by them as such overseers, the names of the persons with whom such debts were contracted, the amount and consideration of each item, the names of the persons for whose benefit the debts were contracted, and if the same have been paid, the time and manner of such payments.

§ 2. On the Tuesday next preceding the annual town meeting in every year the overseers of the poor shall lay the said books before the board of town auditors in their town together with a just and true itemized account of all moneys received and expended by them for the use of the poor since the last preceding meeting of the said board of town auditors. The said board of town auditors shall compare said account with the entries in the books aforesaid, and shall examine the vouchers in support thereof, and may examine the overseers of the poor, under oath, with reference to said account. They shall thereupon audit and settle the same, and state the balance due from the overseers or to them, as the case may be. The said account shall be filed with the town clerk, and at every annual town meeting the town

SUPPLEMENTAL ACTS OF INTEREST TO TOWNS.

clerk shall produce such account for the next preceding year, and read the same, if required by the meeting. The overseers of the poor shall have said books present each year, at the annual town meeting, subject to inspection by voters of the town, and the entries thereon for the preceding year shall be there read publicly, at the time reports of other town officers are presented, if required by a resolution adopted at such meeting.

§ 3. Any overseer of the poor who shall neglect or refuse to comply with any provision of this act shall be guilty of a misdemeanor.

§ 4. This act shall take effect immediately.

LAWS OF 1891, CHAP. 164.

AN ACT to extend the powers of town boards.

APPROVED by the Governor April 10, 1891. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The supervisor, town clerk and justices of the peace or a majority thereof in any town in this state, may expend any surplus moneys for which no provision for expenditure is made, belonging to said town, for the purposes of redemption of outstanding bonds or for improvements in said town.

§ 2. All acts or parts of acts inconsistent with this act are hereby repealed.

§ 3. This act shall take effect immediately.

LAWS OF 1893, CHAP. 79.

AN ACT to amend chapter two hundred and fifty-five of the laws of eighteen hundred and ninety-two, entitled "An act to authorize the several towns in this state to establish lamp or lighting districts outside the limits of any incorporated village or villages therein, and to provide for the lighting of the public buildings, streets, avenues, highways and public places in said districts."

APPROVED by the Governor March 1, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section one of chapter two hundred and fifty-five of the laws of eighteen hundred and ninety-two is hereby amended so as to read as follows:

§ 1. It shall be lawful for the town board of any town in this state to contract for the lighting of the streets, avenues, highways, public places and public buildings therein, outside of the corporate limits of any incorporated village in said town, upon such terms and for such time or period not exceeding ten years as the town board may deem proper or expedient, and for the payment of the expenses thereof may establish one or more lamp or lighting districts therein.

§ 2. Section two of said act is hereby amended so as to read as follows:

§ 2. No such contract shall be made unless a petition for such lighting signed by not less than twenty-five of the taxable inhabitants of said town, shall be filed with the town clerk of said town.

§ 3. Section three of said act is hereby amended so as to read as follows:

§ 3. The town board, upon the filing of such petition, shall cause notice of the same to be published for one week in one or more of the newspapers published in such town, or if no newspaper be published therein, then by posting said notice in at least six public or conspicuous places in said district of the filing of said petition, and of the time and place when the same will be acted upon by said town board.

§ 4. Section four of said act is hereby amended so as to read as follows:

§ 4. The amount of any contract that may be entered into pursuant to the provisions of this act, shall be assessed, levied and collected upon the taxable property in said town or district in the same manner, at the same time, and by the same officers as the town taxes, charges or expenses of said town are now assessed, levied and collected, and shall be paid over by the supervisor to the corporation, company, person or persons furnishing or supplying said light.

§ 5. This act shall take effect immediately.

LAWS OF 1893, CHAP. 442.

AN ACT to authorize the payment of debts in certain towns.

APPROVED by the Governor April 20, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. In any town in which commissioners of improvements have been appointed, as provided in chapter four hundred and fifty-three of the laws of eighteen hundred and eighty-nine, in which the proceeds of the sale of the bonds issued under the provisions of said act have been insufficient to pay in full the debts contracted by such

commissioners in making and continuing the improvements authorized by any election held in such town as provided in said act, the said debts so contracted shall be paid by said town.

§ 2. All such bills and claims which have been contracted by such commissioners in making and continuing the said improvements shall be presented to such commissioners by the several claimants, duly verified, and the said commissioners shall determine the amount due each of such claimants. When the total amount owing by such commissioners shall be determined they shall certify in writing to the supervisor of said town the amount due each claimant and the nature of each claim.

§ 3. When the amount of such debts have been ascertained and certified as aforesaid, the supervisor of the said town shall borrow upon the credit of such town such sum of money as may be necessary to pay such debts, not exceeding, in the aggregate, the sum of fifteen thousand dollars, and for that purpose he shall issue bonds of such town which shall be signed by him and countersigned by the town clerk, and by the chairman of said commissioners and he shall deliver the same to the treasurer of such commissioners. The said commissioners shall sell the said bonds at not less than the par value thereof and shall apply the proceeds thereof to the payment of the debts owing by such commissioners.

§ 4. The bonds issued for the payment of such claims shall be in amounts not less than five hundred dollars each, and shall bear interest not to exceed four per centum per annum. The first five thousand dollars secured by said bonds shall become due and payable not later than on the first day of May, in the year next succeeding the time of the payment of the last bond already issued by said commissioners, for the payment of the improvements made by them, and not less than five thousand dollars secured by said bonds shall become due on the first day of May, in each and every year thereafter, until the whole amount thereof have become due, and the interest on said bonds shall become due and payable on the first days of November and May in each year, until the principal of said bonds shall become due and payable, respectively; and a record of all such bonds so issued shall be kept by the town clerk of said town, in a book especially provided for that purpose, showing the number, date, and amount of each bond, the rate of interest and the date when the same is due and payable, the amounts of principal and interest paid and unpaid thereon, and all details relating to the issue, sale, and redemption thereof.

§ 5. There shall be annually levied and assessed upon the taxable property of the said town outside of the corporate limits of any incorporated city or village by the board of supervisors of the county in

which it is located, and collected, in the same manner that other town charges are levied, assessed, and collected, such sums of money as may be necessary to pay the interest on the said bonds, and the principal thereof, as the same becomes due, and said moneys when collected shall be paid by the receiver of taxes or collector of said town to the supervisor thereof and by said supervisor applied to the payment of the interest due on said bonds and the principal thereof as the same becomes due; and the said supervisor shall, at the time of making his annual account to the board of town auditors of said town, make a true and full account of all moneys received by him for the purpose aforesaid, and deliver to said board of auditors vouchers for all moneys expended by him for the payment of the principal and interest of the aforesaid bonds, and a copy of the said report of the said supervisor shall be entered at length upon the records of the town by the town clerk thereof.

§ 6. This act shall take effect immediately.

LAWS OF 1893, CHAP. 503.

AN ACT to amend section thirty-three of title eight of chapter two hundred and ninety-one of the laws of eighteen hundred and seventy, entitled "An act for the incorporation of villages," as amended by chapter eight hundred and seventy of the laws of eighteen hundred and seventy-one.

APPROVED by the Governor April 29, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section thirty-three of chapter two hundred and ninety-one of the laws of eighteen hundred and seventy, entitled "An act for the incorporation of villages," as amended by chapter eight hundred and seventy of the laws of eighteen hundred and seventy-one, is hereby amended so as to read as follows:

§ 33. The board of supervisors of a county having as shown by the then last preceding federal or state enumeration, a population of not more than eighty thousand inhabitants, are hereby authorized and empowered to extend the boundaries of any incorporated village within such county, upon the petition of the president and board of trustees of such village and of one-half of the electors resident within the portion of territory sought to be included, who shall be liable to be assessed for the ordinary and extraordinary expenditures of such village, if so extended, by a vote of a majority of all the supervisors elected, to be taken by yeas and nays, provided, that no act, ordinance or resolution for such purpose shall be valid and operative

unless it shall receive the affirmative vote of the supervisors of the town or towns from which the additional territory is to be taken, in which such village is situated, and of the supervisor or supervisors, if any, of such village. And the said boards of supervisors are also authorized and empowered to diminish the boundaries of any incorporated village within their respective counties, so as to exclude from such incorporation any portion of the territory embraced therein, upon the petition of two-thirds of the electors resident within the portion of territory sought to be so excluded, who shall be liable to be assessed for the ordinary and extraordinary expenditures of such village, by a vote of a majority of all the supervisors elected, to be taken by yeas and nays, provided, that no act, ordinance or resolution for such purpose shall be valid and operative unless it shall receive the affirmative vote of the supervisor or supervisors, if any, of such village.

§ 2. This act shall take effect immediately.

LAWS OF 1893, CHAP. 545.

AN ACT to provide for the construction of drains, sewers and culverts in towns, unincorporated villages and hamlets.

APPROVED by the Governor May 2, 1893. Passed, three-fifths being present

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Five or more persons owning lands in any portion of a town outside of an incorporated village or city may present a petition to the state board of health accompanied with plans and specifications in duplicate, for the construction of a sewer system, prepared by a competent civil engineer, within the portion of the town including such lands, for the sewerage and drainage of such lands, which shall be particularly bounded and described in said petition. If the state board of health shall approve such plans and specifications, or the same as they may be modified or altered by said board, and certify that such sewer is reasonably necessary for the protection of the public health in such described territory, the question of the construction of such sewer shall be submitted at a special election to be held within such described territory as hereinafter provided for.

§ 2. Such election shall be called by public notices, signed by at least five of the persons signing the petition to the state board of health, specifying the time and place and the purpose thereof and the hours at which the polls shall be opened and closed, and such notices shall three successive weeks prior to the time fixed for such election

be posted in at least five public places within such territory, and be published twice a week for such three weeks in two newspapers circulated or published within the county in which such territory is situated.

§ 3. At the time and place specified in such notice a special election shall be held, at which the supervisor of the town shall preside, and shall, together with one of the justices of the peace of the town, act as inspectors thereof; and the laws applicable to special elections in towns shall be applicable to such election and to the inspectors thereof. All persons of full age, whose names appear upon the last assessment-roll in such town as taxpayers within such described territory, shall be entitled to vote at such election. The question as to whether or not such sewer system shall be constructed shall be submitted at such election, and if a majority of the votes cast at the election shall be against the construction of a sewer system, no further proceedings shall be had thereon, and the persons signing such petition shall be liable for the expenses of the election.

§ 4. If it shall be decided at such election that such sewer system should be constructed, of which decision the written certificate of the inspectors of election shall be forthwith filed in the office of the clerk of the county in which such town is situated, and shall be conclusive evidence thereof, it shall be the duty of the supervisor of the town to give another in two public newspapers specifying the character of the work to be done, and the place at which copies of the specification, plan and description of the work can be obtained, which notice shall be published twice a week for three weeks. He shall also post in five public places in said town a like notice at least three weeks before the time which shall be fixed therein for the receiving of bids for such work. At a time and place specified in said notice the supervisor of the town shall attend and publicly receive written bids for the work so to be done, and the time for the receiving of such bids shall continue for one hour after the time fixed in such notice for their presentation. Such bids shall be received in public, and immediately after the expiration of one hour from the time fixed in such notice for their presentation said bids shall be publicly opened by the supervisor and the contents thereof shall be stated, and any contractor or other party in interest or resident of the town desiring so to do shall be at liberty to examine such bids and to take any memorandum of the contents thereof. The supervisor thereafter and within such reasonable time as may be necessarily consumed in the determination and computation of quantities and prices, in order to determine which is the lowest bid not, however, to exceed in any case one week, shall award the contract for the work so to be done to the lowest bidder,

who shall thereupon be required to sign a contract for such work in triplicate.

§ 5. When such contract shall be so executed by the contractor and by the supervisor, one of said contracts, together with the proofs of publication and posting and the bond to be given by the contractor, shall be filed and preserved and be kept of record in the office of the county clerk of the county, another of said contracts shall be delivered to the contractor, and the third shall be kept by the supervisor of the town. The said contract shall not take effect until there shall be attached to the copy delivered to the contractor and the copy retained by the supervisor, a certificate of the clerk of the county to the following effect:

I hereby certify that a copy of the within contract, together with two affidavits, each stating that the notice of proposal for bids has been duly published twice in each week for three weeks, and another affidavit that such notice has been posted in the town mentioned in said contract three weeks prior to the time in said notice mentioned for the receiving of bids thereunder, was duly filed in this office on the day of in the year ; and that I have attached thereto the certificate of the inspectors of election heretofore filed in this office, deciding that the work in said contract mentioned shall be done.

Witness my hand and official seal

this day of , in the year

Such work shall be done subject to the supervision of a superintendent thereof, who shall be appointed by the supervisor and shall only be paid for when approved by him and by the supervisor in writing. The expenses of such work and proceedings shall, when such work is completed, be ascertained by the supervisor, who shall report the same to the supreme court at a special term thereof, of which application to the court three weeks' notice stating the time and place thereof and the respective expenses and fees attendant upon such work and proceedings shall have been given by posting and publication in the same manner as is herein provided in the case of the notice of letting of the contract. The supreme court shall hear any objections to the expenses and fees attendant upon such work and to the manner of executing the same, and shall determine what compensation should be paid to the supervisor and to the superintendent for their respective services in the premises. The supreme court may appoint a referee to consider and hear and report upon the matters aforesaid for its advisement in respect thereto. If the work shall not have been done in accordance with the contract therefor the court shall not approve thereof, and in such case no payment shall be made there-

SUPPLEMENTAL ACTS OF INTEREST TO TOWNS.

for to the contractor, or it may direct that such work be properly done and completed to the satisfaction of a referee to be appointed by the court, and until it shall be approved by such referee and by the court no payment shall be made. Whenever the court shall make an order fixing the compensation of the supervisor and the superintendent and the expenses attendant upon such work and proceedings, and shall either approve or refuse to approve of the work as done, the supervisor shall report such action of the court to the town assessors, who shall make an apportionment of the amount thus fixed by the court, together with the sum of ten dollars to be paid to each assessor for making such apportionment, among the various owners of property and upon the property embraced in the area specified in the original application which shall be, in the judgment of such assessors, benefited thereby, in proportion to the benefits and advantages received therefrom by said respective owners and pieces of property, and shall report the same to the town board.

§ 6. The town board shall consider, and if necessary, modify and correct such apportionment, after notice of the fact of its having been received by such board, and that for a period of not less than three weeks it will be open for examination by any party interested or affected thereby, at the town clerk's office, shall have been published for not less than three weeks in two newspapers published in the county in which the town is situated, twice in each week, and shall have been posted in at least five public places in said town, and after the said board shall, at a time and place to be specified in such notice, have heard any and all objections which may be made thereof. The amount which shall be so determined by the town board as being properly chargeable to the respective owners and upon the several pieces of land benefited by such work, shall be reported to the board of supervisors of the county and be included in the tax which shall be next levied and imposed by the board of supervisors of the county upon the property of said town embraced in such apportionment, and shall be raised in the same manner as the other taxes of the town, and when so raised and collected shall be paid over to the supervisor, whose duty it shall be to pay the same to the contractor and superintendent employed in the execution of the work, and to any other parties who are entitled to receive compensation for services rendered or materials furnished in the premises. The town board, if it deem it for the best interests of the town, may cause bonds to be issued in payment for such work. Such bonds shall be a town charge and shall be signed by the supervisor and town clerk of the town and may be made payable at such times not exceeding ten years from the issue thereof as the board may deem advisable and shall bear interest at a rate not exceeding five per centum per annum. Such bonds shall be sold by the supervisor at not less than par and the proceeds shall be paid by the supervisor to the persons who are entitled to compensation for services rendered or materials furnished pursuant to this act. Where bonds are issued by the town, payment on such work may be made in installments not exceeding three-fourths of the contract price of the work then completed, with the written approval of the superintendent of such work and the supervisor of the town. No bonds shall be issued in excess of three-fourths of the contract price of the work completed at the time of such issue until the whole work has been completed and an order of the supreme court has been made fixing the sum to be paid as required by this act. Upon the completion of the work and before the issuance of bonds for the balance of the contract price remaining due, the same proceedings shall be had as are provided by section five of this act, except that if the work is not approved by the court the balance remaining due shall not be paid until such approval is obtained. The amount of the principal and interest of such bonds, when due, shall be levied by the board of supervisors of the county on the property benefited by such improvement in the proportion fixed by the assessors and approved by the town board pursuant to this act, and shall be collected as other town taxes, and when collected shall be applied by the supervisor of the town in payment of the principal and interest of such bonds. If the persons owning lands in a portion of a town outside of an incorporated village or city have heretofore determined to construct a sewer system in pursuance of this act, or have constructed such system and the expense therefor has not been paid, the town board of such town may cause bonds to be issued to raise the amount of such expense in the manner provided hereby.

Am'd by chap. 328 of 1894. Took effect April 19, 1894.

§ 7. In case it shall be necessary in any case to condemn real property or to acquire easements therein, in order to properly execute such work, that fact shall be determined by the supervisor ; and he is authorized to take proceedings pursuant to chapter ninety-five of the laws of eighteen hundred and ninety for the condemnation of such land or the acquiring of such easements, and the amount to be paid as determined in such proceedings, with interest thereon to the first day of February succeeding the year in which the tax is levied, including a reasonable allowance to the attorney who shall conduct the same on behalf of the supervisor, to be fixed by the court, shall be by the supervisor included in the amount which shall be by him reported to the supreme court and which shall be subsequently levied, assessed and collected by tax upon the persons and property benefited and be paid over to the persons whose lands or rights therein are taken.

§ 8. The affidavits of the publication of the notice that an apportionment has been made and of the posting of such notice, shall be filed in the county clerk's office with a duplicate original apportionment made by the town assessors, and shall be attached to the contract theretofore filed in that office. The validity of any assessment or tax imposed hereunder shall not be affected or impaired by the fact that the affidavits of publication and of posting required by this act shall not have been filed with the county clerk, or by the fact that any of the notices required by this act shall not have been posted in the form and manner by this act required. The payments to be made under this act shall be entitled to preference over other charges payable out of the money collected for town purposes. The care and preservation of the drain, sewer or culvert when completed shall be attended to by the highway commissioner and shall be a town charge.

§ 9. The contractor is authorized at once, whenever proceedings shall be initiated for the condemnation of any land or easement to enter upon such land and make use of such easement in the execution of his contract. The faith and credit of the town is hereby pledged for the faithful and prompt payment of any sum found due to any person whose land or an easement therein is taken, and in case of any neglect or delay to diligently prosecute the work and the proceedings for the collection and payment of such sum with interest, any such person is authorized to compel the prosecution thereof by mandamus or to collect the said sum by action at law against the town ; and if the town is compelled to pay the same, the amount so paid, with interest, shall be raised by tax upon the property benefited by such work in the manner above stated and be repaid to the town.

LAWS OF 1893, CHAP. 582.

AN ACT to provide for improvements in streets and highways in towns within counties containing upwards of six hundred thousand inhabitants.

APPROVED by the Governor May 6, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. In each of the towns of this state within counties containing upwards of six hundred thousand inhabitants, the supervisor of such town is hereby authorized to appoint one citizen and freeholder residing in each school district of the town, who, together with the said supervisor, ex-officio, shall constitute a board to be known as the street improvement commissioners of such town, with authority to take charge of the system of improvements hereinafter provided for.

§ 2. If a portion of the territory of any such town shall have been detached, to form a school district in connection with any territory of an adjoining town, such portion of territory so detached shall, for all the purposes of this act, be considered as forming a part of the school district within such first mentioned town immediately adjoining the same, and from which it shall have been detached as aforesaid.

§ 3. The moneys to be expended under this act shall be divided and apportioned so that the amounts thereof expended in each of the several school districts, as now constituted, shall be as nearly equal as practicable.

§ 4. Each of the commissioners appointed by the supervisor under the provision of the first section shall take the constitutional oath of office and file the same in the office of the town clerk, together with an undertaking to the town in the sum of five thousand dollars, with security to be approved by the board of town auditors, for the faithful performance of his duties.

§ 5. All vacancies in said office resulting from any cause or from any of said commissioners refusing to qualify shall be filled by the supervisor as in the first instance.

§ 6. For the purpose of effecting the improvements aforesaid the said commissioners shall have power:

1. When any streets and avenues shall have been duly opened and graded according to law, to determine those of them to be improved, the order in which said improvements shall be made, the manner in which the work shall be done and the materials to be used.

2. To enter upon any lands in such towns for the purpose of surveys or for examination, or for such other purpose as is required under this act.

3. To grade, pave, gutter and curb any such street or avenue opened and graded as aforesaid, or any part thereof, and to make such other improvements in and about the same, and with such materials as they may deem proper.

4. To make all necessary drains and as far as practicable to connect the same with existing drains, water-courses and sewers.

5. To make temporary tramways on or over any street or unoccupied lands in said town, for the carriage of earth or materials, and use thereon such vehicles or motive power as they may deem best adapted to the work, and when private lands are so used, to grant such compensation for such use as to said commissioners may seem just.

6. To make contracts for any part of the work under their charge at such prices and under such terms and conditions as they may deem proper. All contracts for work exceeding five hundred dollars in amount shall be awarded to the lowest responsible bidder, after due advertisement in a Brooklyn daily newspaper for ten consecutive days for proposals for such work, but said commissioners may reject any or all bids if they shall deem it for the public interest so to do. Contractors shall be required to enter into bonds to the town with security satisfactory to said commissioners for the faithful performance of their contracts.

7. To make and enforce such rules, regulations and restrictions as they may deem proper for the guidance or direction of the contractors engaged in the work herein provided for.

8. To do all such other things not herein specified as may be incident to the exercise of the powers and duties of said commissioners contemplated in this act.

§ 7. The commissioners aforesaid are authorized, immediately after their appointment and qualification, to make all necessary surveys, and establish plans for the improvement of the streets and avenues as aforesaid, subject to the system of grades, if any, which shall have been established by law, and to prepare and furnish suitable maps, profiles and specifications, and the details thereof of all the work to be done as may be necessary.

§ 8. For the purpose of paying the expenses incurred in making such improvements the supervisor of such town shall in the year eighteen hundred and ninety-four, and in the two next ensuing years, prepare and issue bonds of the town to be known as street improvement bonds and bearing interest at a rate not to exceed five per centum per annum, but not more than five hundred thousand dollars of said bonds shall be issued; said bonds shall be issued in separate series of one hundred thousand dollars respectively; each of said series of one hundred thousand dollars, shall be made due and payable in fifty successive annual installments the first of which shall become due not

less than ten nor more than eleven years from the date of issue, and the supervisor before issuing said bonds or either of them, shall advertise in a Brooklyn daily newspaper five consecutive days for proposals for the same. None of said bonds shall be sold for less than the par value thereof. The moneys arising from the sale of said bonds shall be deposited as realized with the county treasurer, who shall keep a separate account of all moneys received for the purpose of said improvements, to be paid therefrom on the requisition of the aforesaid commissioners from time to time as may be required for the purpose of said improvements.

§ 9. To meet the interest on said bonds, the amounts thereof becoming due in each year shall be levied in and with and as a part of the annual taxes on all the real and personal estate taxable for ordinary town expenses of such town, and shall, in the warrant to the collector, be directed to be paid to the county treasurer for such purpose.

§ 10. To meet the principal of said bonds the assessors, on or before the fifteenth day of July in each year preceding that in which they shall become due, shall divide and apportion the amount of such principal among the several districts of assessment established and determined by the commissioners under the twelfth section, and assess the same in proportion to the cost of the improvements as therein certified. The said assessments shall be placed in an additional column in the assessment-roll, to be headed "improvement tax" and the assessors shall apportion the amount necessary to be raised in each district among the several lots or pieces of land contained therein which in their judgment shall have been benefited, in proportion to the benefit accruing to them by reason thereof. Such amounts so apportioned by the assessors shall be levied on said several lots, pieces or parcels of land respectively, by the board of supervisors, as part of the general tax, and shall be a lien upon and collectible against the same in the like manner and with like effect as the general tax of said town, and shall, in the warrant to the collector, be directed to be paid to the county treasurer for the purpose herein specified. Each of the several annual installments assessed as aforesaid each year, shall be a lien upon the lots or parcels of land affected thereby only from the time the same shall be respectively levied.

§ 11. In case any commissioners shall be appointed by law for the grading of any such streets and avenues, they shall be authorized to proceed with such grading only according to such plan and to such extent as shall first be approved by the said street improvement commissioners in writing.

§ 12. The powers and duties of said commissioners appointed under the first section shall not continue for more than three years and six months after the passage of this act; and upon the final completion of said improvements as determined by them they shall adjust all matters connected herewith, and shall cause all payments thereof to be made by requisition upon the county treasurer as aforesaid, and shall thereupon render to the board of town auditors an account under oath of all moneys received and expended by them under this act, with all vouchers and receipts taken by them, and shall file in the office of the town clerk a statement of the cost of the improvement of the said streets severally and respectively, including all their expenses under this act to be apportioned by them among said several streets as a part of such cost, and shall establish and determine districts for the assessment of the expenses of said several improvements, and file a certificate thereof, together with all records, maps and other papers connected with or used in reference to said improvements.

§ 13. Nothing in this act contained shall be construed as affecting the provisions of any act now in force for the laying out, construction and maintenance of any driveway or parkway in this state, nor as interfering with the powers and duties of any board of health, board of sewer or flagging commissioners, nor, except so far as hereinbefore otherwise provided, with the duties of the commissioners who may from time to time be appointed by law for the grading of streets or avenues in any such town, nor shall any of the powers conferred by this act upon said street improvement commissioners be exercised except by the votes of a majority of them, and with the concurrence of the supervisor of the town.

§ 14. This act shall not apply to the towns of Flatbush, Flatlands and Gravesend in Kings county.

§ 15. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 16. This act shall take effect immediately.

LAWS OF 1893, CHAP. 77.

AN ACT to confer further powers upon the town board of the town of Jamaica.

APPROVED by the Governor March 1, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The town board of the town of Jamaica, by a majority vote of all its members, is hereby authorized and empowered to fix the salary of the receiver of taxes of the town of Jamaica in their discretion, but not exceeding the sum of three thousand dollars per year. Such sum, when so fixed, shall not be changed for a period of three years. The salary so fixed shall be a town charge, and shall be levied and collected the same as other town charges, and shall be paid by the supervisor of the town to the receiver of taxes in equal quarterly payments. Such salary shall be in full of all services rendered by the said receiver of taxes.

§ 2. The town board of the town of Jamaica may authorize and empower the receiver of taxes to appoint such a number of clerks in his office as the said board may from time to time direct. The compensation of such clerks shall be determined by said town board, and the same shall be a town charge, and shall be levied and collected and paid in the same manner as the salary of the receiver is paid.

§ 3. All acts or parts of acts inconsistent with this act are hereby repealed.

§ 4. This act shall take effect immediately.

LAWS OF 1894, CHAP. 146.

AN ACT to amend chapter one hundred and forty-seven of the laws of eighteen hundred and sixty-four, entitled "An act to provide for the erection of a town hall in the town of Jamaica, in the county of Queens," and acts amendatory thereof.

BECAME a law March 20, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section three of chapter one hundred and forty-seven of the laws of eighteen hundred and sixty-four, entitled "An act to provide for the erection of a town hall in the town of Jamaica, in the county of Queens," and the acts amendatory thereof, is hereby amended so as to read as follows:

§ 3. The town board of the town of Jamaica shall have the care and custody of the said town hall, and all such adjacent lands as may be acquired by the said town board for public uses and purposes, and shall establish such rules and regulations for the government of the same as they deem proper. The title to said town hall and the site thereof, and of such adjacent lands, shall be deemed to be vested in the said town of Jamaica; and the said town board is hereby expressly vested with power to make or cause to be made all repairs and alterations in said town hall, and to acquire, take and hold, in the name of the town and for the benefit of the town, by purchase or condemnation, such adjacent lands for public uses and purposes as the said board may deem necessary or proper, and the expense thereof shall be deemed a town charge, and shall be levied and collected the same as other town charges.

§ 2. This act shall take effect immediately.

LAWS OF 1894, CHAP. 148.

AN ACT in relation to the assessors of the village of Stamford, in the county of Delaware.

BECAME a law March 21, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. There shall hereafter be three assessors of the village of Stamford, who shall have the powers and perform the duties,

SUPPLEMENTAL ACTS OF INTEREST TO TOWNS.

which the assessor of the village now has, or which may be conferred upon him or them by law, and each of whom, except as hereinafter provided, shall hold office for three years.

§ 2. At the first annual election of officers of the village of Stamford, after this act becomes a law there shall be elected three assessors of the village; one to serve one year, one to serve two years and one to serve three years. The length of term of each assessor voted for shall be designated upon the ballot of the voter. Thereafter there shall be one assessor elected at each annual election. Vacancies in the office of assessor shall be filled by appointment of the board of trustees of the village.

§ 3. This act shall take effect immediately.

LAWS OF 1894, CHAP. 300.

AN ACT creating a board of assessors in and for the city of Utica.

BECAME a law April 16, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. There shall be elected in the manner now provided by law at the annual election held in November, eighteen hundred and ninety-four, in the city of Utica, four assessors for said city. There shall not be elected at any election held hereafter in said city an assessor for each ward. The salaries of the assessors already elected shall be paid as heretofore until their terms expire.

§ 2. Such four assessors shall be elected at such annual election in the same manner as other city officers are elected. The two persons nominated by any political party, or by a certificate filed in the clerk's office, as now provided by the election law of the state, receiving the highest number of votes shall be declared duly elected such assessors; no more than two persons nominated by any party, or by such certificate, shall be declared elected and entitled to serve as such assessors. The two assessors nominated by any other party, or by said certificate who shall receive the next highest number of votes shall be declared elected as such assessors and entitled to serve as such. The two assessors receiving the highest number of votes, as above provided, shall serve for two years, commencing January first, eighteen hundred and ninety-five. The two assessors receiving the

next highest number of votes, as above provided, shall serve for one year, commencing January first, eighteen hundred and ninety-five. In case two assessors nominated by the respective political parties or by such certificate, shall receive an equal number of votes, the four assessors so receiving such number of votes shall be declared elected and the common council of the city of Utica shall determine which two shall serve for one year and which two shall serve for two years.

§ 3. There shall be elected at each annual election held after November, eighteen hundred and ninety-four, two assessors for said city. The person nominated by any political party or by the filing of a certificate, as required by the election law of the state, receiving the highest number of votes shall be declared elected, but only one such person so nominated by any political party or by such certificate shall be declared elected as such assessor. The person nominated by any political party or by such certificate, receiving the next highest number of votes shall be declared elected as the other assessor. In case any two persons nominated by any political party, or by the filing of such certificate shall receive an equal number of votes, which shall be next to the highest number of votes cast, the common council shall determine which shall be entitled to serve. Such assessors, so elected, shall commence their term of office on the first day of January, next succeeding their election, and shall hold their term of office for two years.

§ 4. Such assessors, so elected, shall take the usual oath of office within twenty days after their certificate of election has been filed. They shall receive an annual salary of fifteen hundred dollars, payable quarterly. The money necessary to pay such salaries, and all moneys necessary to pay the expense of said board, as herein provided, shall be included by the common council in their annual tax budget, and be levied and collected in the same manner as moneys necessary to run and carry on the city government.

§ 5. The common council of the city of Utica shall provide, free of charge, a suitable office for said assessors in the city hall of said city, or in some other convenient and central part of the said city. The said assessors shall keep such office open for the transaction of business on each day, excepting Sundays and holidays, from nine o'clock in the forenoon until one o'clock in the afternoon, and from two o'clock until five o'clock in the afternoon. They shall select one of their number as clerk, to serve during the pleasure of said board of assessors, at an additional compensation of three hundred

dollars, or at that rate per year. Said clerk shall have charge of the office occupied by said assessors and see that the same is kept open during the hours above named. Said assessors, so elected, shall give their entire time and attention to the duties of their office, and neither of such assessors shall, during the term of his office, be engaged in any other business or profession; and if any said assessor shall become engaged in any other business or profession during their term they shall forfeit their office, and it shall be declared vacant by the common council of said city.

§ 6. The said assessors shall perform all the duties and possess all the powers conferred upon assessors in the different towns of the state, and be subject to all their obligations; they shall also perform all the duties in reference to the assessment of property within the city, for the purpose of levying the taxes and local assessments imposed, or which may be imposed by the common council; they shall make an assessment-roll for each ward.

§ 7. On completing the assessment-rolls, which shall be done by said assessors on or before the first day of August in each year, they shall have their assessment-rolls of the several wards at their office; they shall then give notice, by posting hand-bills and publishing in the official papers that the assessment-rolls are completed and left at their office, where the same may be seen and examined by any person for the next twenty days, and that the assessors will attend, during the time specified in such notice, at their office to review their assessments, in the same manner as assessors of towns. If, in case the twentieth day shall fall on Sunday, the said assessors shall attend, for the purposes aforesaid, at their office during the following Monday.

§ 8. The said assessors shall view the different places and parcels of real estate in the city, and shall place upon such real estate or property such valuation as in their judgment shall be fair and equitable for assessment purposes. Such assessors shall make their valuation of real estate fair and equitable throughout the city. They shall also assess all personal property owned by individuals, firms or corporations liable to taxation under the laws of this state, and such valuation shall be included in the assessment-rolls made by such assessors and be stated separately in the same manner, as assessments are now provided to be made under the laws of this state.

§ 9. In the assessment of any lands in said city, it shall be sufficient to state the name of one of the owners or occupants of said land, the number of the block or street on which it is situated, or

the number of the lot or farm lot, if not subdivided in block designated upon the streets of the city; and also the street number of any building thereon; but if the land be vacant or buildings thereon are not numbered, then the name of the street on which the fronts shall be given. In case no inhabited building is on the lot and the owner's name can not, after reasonable diligence, be ascertained, the owner of such lot or parcel may be designated as "owner known." No error in the name of the owner or occupant of a lot or parcel of land shall invalidate the assessment. The said assessors shall make use, as far as practicable, of any map of said city, or of any ward or different portions of said city, adopted or furnished to the common council of said city; every reference in an assessment-roll, referring to a map, shall be considered as referring to the last adopted map, unless it is otherwise stated therein. During the twenty days mentioned in the last section, the said assessors shall make any correction of any error, as to valuation, or as to description of property, which in their judgment they deem necessary to be made.

§ 10. At the end of twenty days they shall cease to correct and review such assessment-rolls, and shall within ten days thereafter have the same completed and subscribed and delivered to the county clerk to be filed by him, and a duplicate of the roll of each ward shall be delivered by the clerk to the supervisor of the ward, by him delivered to the board of supervisors of the county of Oneida. During the time the assessors are correcting and reviewing any assessment, general or local, they shall have power to add to or delete in said taxes or assessment-roll any property liable to assessment and in the assessment thereof, which may have been omitted from such rolls upon giving personal notice to the owner or agent of such property at least two days prior to the adding of the same.

§ 11. All books, maps, assessment-rolls and papers pertaining to the office of said assessors and used by them shall be public records and at all reasonable times be open to public inspection in their office.

§ 12. For the purpose of making all assessments as correct as possible, it shall be the duty of said assessors, from time to time, to procure from the county clerk's office of Oneida county, a list of transfers of real estate in said city.

§ 13. It shall be the duty of said assessors also to make assessments for the construction of sewers, drains, side and front walks, and all other improvements to be paid for by an assessment.

SUPPLEMENTAL ACTS OF INTEREST TO TOWNS.

(excepting assessment for pavements), which shall be ordered and constructed by the common council of the city of Utica, as provided by the city charter of said city. The assessment for pavements shall be made by the city surveyor, as now provided by the city charter.

§ 14. Whenever any work has been completed in pursuance to a contract made by the common council of the city of Utica, in the construction of a sewer, side or crosswalks, or other improvements, excepting paving, the city surveyor shall certify to said assessors the total expense of such construction, including the expense of advertising and all other expenses in connection with said work; immediately upon the receipt of such certificate, the said assessors shall proceed to assess the property benefited and liable to pay for such work, in the same manner as is provided by the city charter of said city. In the assessment for the construction of sewers, they shall assess the property benefited as provided by the city charter of said city and the law applicable to such assessment. In such assessment, it shall be sufficient to describe the property so assessed and the owner, and make such assessment in the same manner as provided by section nine of this act. The said assessors shall follow the direction of the city charter as far as making assessment for the building of side and crosswalks, and in making all assessments for local improvements they shall be governed by said city charter and the law applicable to such assessment. So much of the provisions of the city charter as provides for the appointment of disinterested freeholders as local assessors, for the purpose of making assessment for the construction of sewers, drains, et cetera, is hereby repealed, but in all other respects, such assessments shall be made as provided by the city charter, by the assessors herein provided for, but no fees or charges shall be included in such assessment for making the same.

§ 15. All provisions of the Utica city charter which are in conflict with or inconsistent with this act are hereby repealed.

§ 16. The mayor of the city of Utica shall be an ex-officio member of said board of assessors, but he shall have no vote on any question coming for action before said board, except in case of a tie vote; whenever notified in writing by any member of said board, that his attendance is required at a meeting of said board, it shall be his duty to attend such meeting and cast the deciding vote in case of a tie on any question before said board.

§ 17. In case of a vacancy created in said board of assessors by the death of one or more of such assessors or by the forfeiture of

his office as hereinbefore provided, such vacancy shall be filled by the common council of said city.

§ 18. None of the provisions of the foregoing sections of this act for the election of assessors as therein specified shall be of force or effect unless a majority of the taxpayers resident of said city who are legal voters and whose names appear on the last preceding assessment-roll of said city, voting thereon, shall have first approved the same at an election or meeting to be held for such purpose in the city hall of said city, on the first Tuesday of October, eighteen hundred and ninety-four, between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of that day; and for the purpose of enabling the said taxpayers of said city to vote on the question, the common council of said city shall make all necessary provisions for the holding of such election or meeting, and for such purpose shall appoint not less than three inspectors and one of whom may be one of said inspectors, to conduct such election or meeting, and make returns thereof to the clerk of the city of Utica, to be made of record in his office by said clerk, in the same manner as far as applicable as the charter elections of said city are concerned, and said common council shall cause to be prepared a suitable number of printed ballots for said election, one set of which shall contain the words, respectively, "For creating a board of assessors for the city of Utica," which shall be indorsed, "For a board of assessors," and the other set shall contain the words, respectively, "Against creating a board of assessors," which shall be indorsed, "Against a board of assessors." The expense of printing said ballots and the holding of such election or meeting, shall be a city charge, payable, on vouchers duly verified, out of any fund appropriated for such purpose, the same as other city charges or expenses are. Upon the result of such election or meeting being ascertained, a certificate thereof shall be made by the city clerk and delivered to him by the mayor, who shall, if a majority of votes cast be in favor of creating a board of assessors, direct the carrying out of the provisions for the election of assessors, but not otherwise.

§ 19. This act shall take effect immediately.

LAWS OF 1894, CHAP. 666.

AN ACT in relation to the destruction by fire or heat of all animal and vegetable refuse and garbage in towns and villages having over ten thousand inhabitants.

BECAME a law May 11, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. Within any village having over ten thousand inhabitants it shall be lawful for the trustees of such village, and within any town having over ten thousand inhabitants, or within any district in any such town established by the town board of such town, it shall be lawful for the town board of such town, to provide for the collection of and to cause to be consumed by fire or heat and to prohibit the throwing, casting or deposit in any body or stream of water, or upon any ash heap or other place than such as may be provided by them within such village, town or district, any animal or vegetable refuse, dead animal, carrion, offal, swill or garbage. And it shall be lawful for the town board of any such town, or the trustees of any such village, to contract for the collection and for the consumption by heat or fire of any such refuse or other aforesaid matter, or for the purchase, maintenance and operation of any appliances for the collection and consumption thereof.

§ 2. Any person offending against any such provision as aforesaid made by any such town board or trustees for the collection, or for the prohibition of the throwing, casting or deposit, of any such refuse or other aforesaid matter shall be deemed guilty of a misdemeanor.

§ 3. Any expense incurred in any town, or any district in any town, pursuant to the provisions of this act shall be levied, assessed and collected upon the taxable property in the town or district as to which the same is incurred in the same manner, at the same time and by the same officers as the town taxes, charges or expenses of such town are assessed, levied and collected, and shall be paid over to the supervisor of such town, and by him applied to the payment of such expense. Any expense incurred in any village, pursuant to the provisions of this act, shall be annually raised as a part of the expenses of such village, and shall be levied, assessed and collected in the

same manner that other expenses of such village are raised and be kept separate from the other funds of such village and shall be applied by the trustees thereof to the payment of such expenses.

§ 4. This act shall take effect immediately

LAWS OF 1894, CHAP. 95.

AN ACT declaratory of the rights and powers of the Model Town Company, organized under chapter seven hundred and seven of the laws of eighteen hundred and ninety-three.

BECAME a law March 5, 1894, with the approval of the Governor. Passed, fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The Model Town Company, organized under chapter seven hundred and seven of the laws of eighteen hundred and ninety-three, in carrying out any of the grants or powers mentioned in said act, shall have no power to create any debts or obligations which shall be a lien on or any obligation that may be enforced against property except its own; nor shall it, against the wish of the owners thereof, include in its town any property optioned to it, until title to the same has been perfected by purchase and payment.

§ 2. This act shall take effect immediately.

LAWS OF 1894, CHAP. 605.

AN ACT to amend chapter seven hundred and seven of the laws of one thousand eight hundred and ninety-three, entitled "An Act to incorporate the Model Town Company, to define its rights, powers and privileges, and for other purposes."

BECAME a law May 9, 1894, with the approval of the Governor. Passed, fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section one of chapter seven hundred and seven of the laws of one thousand eight hundred and ninety-three, is hereby amended so as to read as follows:

SUPPLEMENTAL ACTS OF INTEREST TO TOWNS.

§ 1. William T. Love and E. M. Love, of the village of Lewiston, New York, Augustine Davis of Auburn Park, Illinois, L. L. Bailey of Wellsborough, Pennsylvania, and William A. Wilson of Knoxville, Tennessee, are hereby constituted a corporation, the corporate name of which is "The Niagara Power and Development Company."

§ 2. Subdivision A of section five of chapter seven hundred and seven of the laws of one thousand eight hundred and ninety-three, is hereby amended so as to read as follows :

A. To purchase, buy, sell, and deal in real estate or securities based thereon, in the counties of Niagara and Erie, in the state of New York, and to purchase or lease the franchise, improvements, and all rights of "The Niagara County Irrigation and Water Supply Company."

§ 3. The title of said chapter seven hundred and seven of the laws of one thousand eight hundred and ninety-three, entitled "An act to incorporate the Model Town Company, to define its rights, powers and privileges, and for other purposes," is hereby amended to read "An act to incorporate the Niagara Power and Development Company, to define its rights, powers and privileges and for other purposes."

§ 4. This act shall take effect immediately.

LAWS OF 1894, CHAP. 754.

AN ACT to amend chapter seven hundred and seven of the laws of eighteen hundred and ninety-three, entitled "An act to incorporate the Model Town Company, to define its rights, powers and privileges, and for other purposes."

BECAME a law May 22, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section five of chapter seven hundred and seven of the laws of eighteen hundred and ninety-three is hereby amended by adding the following additional subdivision, to be known as subdivision ten:

10. Contracts of said corporation for the sale or conveyance of any of its real property in the county of Niagara, in the state of New York, made with any alien, shall be of the same force and effect as if made with any citizen of the United States, and such alien may hold, enjoy, convey, transmit and devise any interest in such real property, subject to taxes, assessments and burthens, in the same manner, to the same extent and with the same effect as if he was himself such a citizen aforesaid, notwithstanding the fact that he is a non-resident alien.

§ 2. This act shall take effect immediately.

LAWS OF 1896, CHAP. 309.

AN ACT to amend chapter two hundred and fifty-five of the laws of eighteen hundred and ninety-two, as amended by chapter seventy-nine of the laws of eighteen hundred and ninety-three, entitled "An act to authorize the several towns of this state to establish lamp or lighting districts outside the limits of any incorporated village or villages therein, and to provide for the lighting of public buildings, streets, avenues, highways and public places in said district," relating to districts in more than one town.

BECAME a law April 17, 1896, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section one of chapter two hundred and fifty-five of the laws of eighteen hundred and ninety-two, as amended by chapter seventy-nine of the laws of eighteen hundred and ninety-three, is hereby amended to read as follows:

§ 1. It shall be lawful for the town board of any town in this state to contract for the lighting of the streets, avenues, highways, public places and public buildings therein, outside of the corporate limits of any incorporated village in said town, upon such terms and for such time or period not exceeding ten years, as the town board may deem proper or expedient, and for the payment of the expenses thereof may establish one or more lamps or lighting districts therein. It shall be lawful for the town boards of two or more adjoining towns in this state whenever a petition for the establishment of a lamp or lighting district shall cover territory lying in two or more adjoining towns in this state, to contract for the lighting of the streets, avenues, highways, public places and public buildings therein, outside of the corporate limits of any incorporated village in said town upon such terms and for such time, or period not exceeding ten years, as the town boards of two or more adjoining towns in joint session assembled may deem proper or expedient and for the payment of the expenses thereof.

§ 2. Section two of said act as amended is hereby amended to read as follows:

§ 2. No such contract shall be made unless a petition for such lighting signed by not less than twenty-five of the taxable inhabitants of said town, shall be filed with the town clerk of said town. If such district shall lie in two or more adjoining towns, then the

SUPPLEMENTAL ACTS OF INTEREST TO TOWNS.

petition for such lighting shall be signed by not less than twenty-five of the taxable inhabitants of said towns residing in said district and shall be filed with the town clerk of each of said towns.

§ 3. Section three of said act as amended is hereby amended to read as follows:

§ 3. The town board, or if such district shall lie in two or more adjoining towns, then the town boards of each such town shall cause notice of the same to be published for one week in one or more of the newspapers published in such town or towns, or if no newspaper be published in such town or towns, then by posting said notice in at least six public and conspicuous places in said district of the filing of said petition, and the time and place when the same will be acted upon by said town board, or if such lighting district lies in two or more adjoining towns, then when the same will be acted upon at a joint meeting of the town boards of such towns, to be held in the territory where such district is to be created.

§ 4. Section four of said act as amended is hereby amended to read as follows:

§ 4. The amount of any contract that may be entered into pursuant to the provisions of this act, shall be assessed, levied and collected upon the taxable property in said town or district in the same manner, at the same time, and by the same officers as the town taxes, charges or expenses of said town are now assessed, levied and collected, and the same shall be paid over by the supervisor to the corporation, company, person or persons furnishing or supplying said light. If the town boards of two or more adjoining towns shall, in joint session, establish a lamp or lighting district in two or more adjoining towns, they shall determine the relative proportion of the expense of such lighting which shall be borne by each of said towns, and the amount of such expense shall be assessed and levied on the taxable property in such lighting district in each of said towns, and collected in the same manner and at the same time, and by the same officers as the town taxes or charges or expenses of the town in which said district is located, are now assessed, levied and collected, and such relative expense shall be paid over by the supervisor of each of said towns to the corporation, company, person or persons furnishing or supplying said light.

§ 5. This act shall take effect immediately.

LAWS OF 1896, CHAP. 917.

AN ACT authorizing the assessors of towns to reassess taxes erroneously assessed.

BECAME a law May 27, 1896, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Whenever the assessors of the town of New Hartford shall regard a tax or taxes upon any of the property in such town as uncollectible by reason of any error, defect, irregularity or omission in the assessment or assessments, or by reason of the failure of said assessors or their predecessors in office, to make such assessment or assessments in conformity to the statutes applicable thereto; or, whenever any tax sale or tax sales based upon such erroneous assessment or assessments shall have been adjudged invalid by any court or judge, or shall be deemed invalid by said assessors by reason of any defective assessment or assessments; or whenever any money paid by a purchaser at any tax sale or tax sales based upon such erroneous assessment or assessments shall be refunded to such purchaser by reason of any such error, defect, irregularity or omission in the assessment or assessments, or in any proceedings subsequent thereto, such assessors shall have power, and it shall be their duty, to reassess said tax or taxes, or so much thereof as may remain unpaid with interest thereon from the time when said tax or taxes should have been paid under said original assessment or assessments, had such assessment or assessments been valid, upon the property properly chargeable therewith, and thereupon said reassessment shall be as valid as though the same were an original assessment.

§ 2. Whenever any tax or taxes shall be reassessed as provided in section one of this act, such reassessment shall be enforced in the same manner as an original assessment, and all the provisions of law and general statutes of this state in relation to the payment and collection of taxes, tax sales and proceedings thereon shall be applicable thereto.

§ 3. This act shall apply, not only to taxes and assessments made subsequent to its passage but shall apply to, and authorize the reassessment of all taxes assessed and all assessments made within five years prior thereto.

§ 4. This act shall take effect immediately.

FORMS FOR TOWN LAW.

Form No. 1. Section 11.

APPLICATION TO CHANGE PLACE OF ANNUAL TOWN MEETING.

To the Electors of the Town of....., in the County of.....:

The undersigned, fifteen electors of the town of....., in said county, apply for a submission to the electors of said town, at the next annual town meeting therein, of the question, to be determined by them by ballot, as to where future town meetings shall be held.

Dated this.....day of....., 18..

(Sign here.)

Form No. 2. Section 19.

APPOINTMENT OF THIRD INSPECTOR OF ELECTION.

STATE OF NEW YORK, }
COUNTY OF....., } ss.:
Town of....., }

We, the undersigned, presiding officers (or a majority of the presiding officers) of the annual town meeting, held in the town of....., on the..... day of....., A. D. 18.., do hereby appoint....., in election district No. 1, and..... in election district No. 2, in said town, inspectors of election in said districts respectively, to be associated with the two inspectors in each of said districts respectively, who have been this day elected inspectors of election for the ensuing year; and we hereby certify that the said..... and..... were each one of the two persons who received at said town meeting the highest number of votes respectively for said office of inspectors of elections, next to the two inspectors in each of said districts, who were elected.

Dated at....., this.....day of....., A. D. 18..

This order should be signed by the whole or by a majority of such presiding officers and should be filed in the town clerk office.

Form No. 3. Section 25.

APPLICATION BY TAX PAYERS FOR SPECIAL TOWN MEETING.

To C. D., Town Clerk of the Town of....., in the County of.....:

The undersigned, twenty-five tax payers of said town, whose names appear on the last assessment-roll of said town (or as the case may be), hereby make application and require a special town meeting to be called, pursuant to section 25 of the Town Law, for the purpose of (here state the purpose for which the special town meeting is to be called).

Dated this....day of....., 18..

(Tax payers sign here.)

This form may be adapted to a case where the application is made by the officers named in this section.

FORMS FOR TOWN LAW.

Form No. 4. Section 26.

NOTICE OF SPECIAL TOWN MEETING.

WHEREAS, a petition of twenty-five or more taxpayers of the town of, in the county of, whose names appear on the assessment-roll of said town (or as the case may be), has been presented requiring a special town meeting to be called for the purpose of (state purpose of such meeting as in the application); now, therefore, notice is hereby given pursuant to section 26 of the Town Law, that a special town meeting for said town will be held at (state the place), in said town, on the....day of 18.., for the purpose above stated.

Dated this....day of....., 18..

.....
Town Clerk

Form No. 5. Section 34.

NOTICE OF PROPOSITIONS TO BE DETERMINED BY BALLOT.

To the Electors of the Town of, in the County of

The undersigned (name officer), hereby applies for a vote to be taken by ballot at the next annual (or at a special) town meeting, to be held in said town, upon the following proposition (here fully state the matter), upon the following proposition (here fully state the matter)

Dated the....day of....., 18..

.....
(Name of officer)

If a town officer, as such, makes the application for a vote to raise money for purposes pertaining to his duties, he must file, with his application, a statement of his account to date, with the facts and circumstances which, in his opinion, make the appropriation applied for necessary, and his estimate of the sum necessary for the purpose stated.

For the rights of electors and the duty of the town clerk in such cases see section 34 of Town Law.

Form No. 6. Section 51.

OATH OF OFFICE.

STATE OF NEW YORK, }
COUNTY OF, } ss.:

I,, of the town of, in the county and state of, said, having been elected of said town, do solemnly swear (or affirm) that I will support the constitution of the United States of America, and the constitution of the state of New York, and that I will faithfully discharge the duties of the office of of said town to the best of my ability. And I do there solemnly swear (or affirm) that I have not directly or indirectly paid, or promised to pay, contributed, or offered or promised to contribute, any money or other valuable thing as a consideration or reward for the giving or withholding of a vote at the election at which I was elected to said office, and have made any promise to influence the giving or withholding of any such vote.

Subscribed and sworn to before me, }
this day of, 18... }

.....
Justice of the Peace.

FORMS FOR TOWN LAW.

ACCOMPANYING CERTIFICATE.

STATE OF NEW YORK, }
COUNTY OF....., } ss.:
Town of....., }

I, a justice of the peace in and for the town of, in the county aforesaid, do hereby certify that on the day of, 18.., before me personally appeared, of the town aforesaid, who then and there duly took and subscribed the foregoing oath of office.

Dated this day of, 18...

.....,
Justice of the Peace.

Form No. 7. Section 52.

COLLECTOR'S UNDERTAKING.

WHEREAS,, of the town of, in the county of, was, on the day of, 18.., duly elected collector of said town; now, therefore, we, the said, principal, and and, of the town of, his sureties, do hereby, pursuant to section 52 of the Town Law, jointly and severally undertake to and with the town aforesaid that the said will well and faithfully execute his duties as collector, pay over all moneys received by him as such collector, and account, in the manner and within the time provided by law, for all taxes upon the assessment-roll of his town, delivered to him for the ensuing year.

Dated this day of, 18...

.....
.....
.....

STATE OF NEW YORK, }
COUNTY OF, } ss.:

On this day of, 18.., before me, the subscriber, personally appeared and, to me personally known to be the same persons described in, and who executed, the foregoing undertaking, and severally acknowledged that they executed the same.

.....,
Justice of the Peace.

STATE OF NEW YORK, }
COUNTY OF, } ss.:

..... and, the sureties mentioned in the foregoing undertaking, being severally duly sworn, each for himself, says that he is a resident and freeholder (or householder) within this state, and is worth dollars over and above all debts and liabilities which he owes or has incurred, and exclusive of property exempt by law from levy and sale on execution.

.....
.....

Subscribed and sworn to before me, }
this day of, 18... }

.....,
Justice of the Peace.

FORMS FOR TOWN LAW.

APPROVAL BY SUPERVISOR.

I hereby approve of the foregoing undertaking, and of the sufficiency of sureties therein named.

.....,
Supervisor of the Town of

Form No. 8. Section 54.

FORM OF CONSTABLE'S UNDERTAKING.

WHEREAS, was on the day of March, A. D. 18..., elected (or appointed) a constable of the town of, in the county of and state of New York; now, therefore, the said, as principal,, (and), as sureties, both of the of, in said county, do hereby jointly and severally undertake to and the town aforesaid to pay to each and every person who may be entitled the all such sums of money as the said constable may become liable to pay on account of any execution which shall be delivered to him for collection, and to pay and every person for any damages which he may sustain from, or by, any thing done by such constable, by virtue of his office.

Dated , March, A. D. 18...

.....
.....
.....

(Acknowledgment and justification of sureties as in Form No. 7.)

The following form of approval to be indorsed upon the bond will be sufficient.

COUNTY OF } ss.:
TOWN OF, }

I hereby approve of the above (or within) bond as to its form and manner of execution, and of the sufficiency of the sureties therein; and I also hereby certify that the same was executed in my presence by the said, and, the constable and sureties therein mentioned.

Dated March, 18...

....., *Supervisor of*
....., *Town Clerk of*

Form No. 9. Section 57.

CERTIFICATE OF ELECTION OF JUSTICES.

COUNTY OF } ss.:
TOWN OF, }

To, Esq., County Clerk of County:

I do hereby certify that at the annual town meeting of the said town, held therein on the day of, 18...,, duly elected justice of the peace for a full term.

Dated this day of, 18...

.....,
Town Clerk

FORMS FOR TOWN LAW.

Form No. 10. Section 58.

JUSTICE'S UNDERTAKING.

WHEREAS,, of the town of, in the county of, was on the day of, 18.., duly elected justice of the peace of said town; now, therefore, we the said, principal, and and, of the town of, his sureties, do hereby, pursuant to section 58 of the Town Law, jointly and severally undertake to and with the town aforesaid that the, will pay over on demand to the officer, person or persons entitled to the same, all moneys received by him by virtue of his office.

Dated this day of, 18..

.....
.....
.....

(For acknowledgment and justification of sureties, see Form No. 7.)

..... COUNTY, } ss.:
TOWN OF, }

I do hereby approve of the foregoing instrument as to its form and manner of execution, and also of the sufficiency of the sureties therein.

.....
Supervisor of the Town of

In case the supervisor is also a justice of the peace, the approval must be by the town clerk.

Form No. 11. Section 58.

CERTIFICATE THAT JUSTICE HAS FILED HIS UNDERTAKING.

COUNTY OF, } ss.:
TOWN OF, }

To, Esq., County Clerk of County.

I do hereby certify that has filed his undertaking as justice of the peace of said town, pursuant to section 58 of the Town Law.

Dated this day of, 18..

.....
Town Clerk.

Form No. 12. Section 60.

SUPERVISOR'S UNDERTAKING.

WHEREAS,, of the town of, in the county of, was on the day of, 18.., duly elected supervisor of said town; now, therefore, we, the said, principal, and and, of the town of, his sureties, do hereby, pursuant to section 60 of the Town Law, jointly and severally undertake to and with the town aforesaid that the said will well and faithfully discharge his official duties as such supervisor, and that he will well and truly keep, pay over and account for all moneys and property, including the local school fund, if any, belonging to his town and coming into his hands as such supervisor.

Dated this day of, 18..

.....
.....
.....

FORMS FOR TOWN LAW.

STATE OF NEW YORK, }
COUNTY OF....., } ss. :

On this ...day of....., A D. 18., before me, the undersigned, personally appeared and to me personally known to be the same persons mentioned in and who executed the foregoing instrument, and severally acknowledged that they executed the same.

Justice of the Peace.

STATE OF NEW YORK, }
COUNTY OF....., } ss. :

..... and, the sureties mentioned in the foregoing instrument, being severally duly sworn, each for himself, says that he is a resident and freeholder (or householder) within this state, and is worth..... dollars over and above all the debts and liabilities which he owes or has incurred and exclusive of property exempt by law from levy and sale on execution.

.....
.....

Severally subscribed and sworn to before }
me, this....day of....., A. D. 18., }

Justice of the Peace.

APPROVAL BY BOARD OF TOWN AUDITORS.

TOWN OF....., ss. :

We hereby approve the above (or within) bond as to its form and manner of execution, and of the sufficiency of the sureties therein.

.....
.....
.....

Board of Town Auditors.

Form No. 13. Section 61.

UNDERTAKING OF COMMISSIONERS OF EXCISE.

WHEREAS, of the town of....., in the county of was, on the....day of....., 18., duly elected commissioner of excise; now, therefore, we, the said, principal, and of the town of....., his surety, do hereby, pursuant to section 61 of the Town Law, jointly and severally undertake, to and with the town aforesaid, that the said.....will pay over to the supervisor of the town of....., within thirty days after the receipt thereof, all moneys received by him as such commissioner of excise.

Dated this....day of....., 18..

.....
.....

(For acknowledgment, justification and approval, see Form No. 7.)

This undertaking may be executed by one surety.

But see section 7 of Excise Law, and Form No. . under such law.

FORMS FOR TOWN LAW.

Form No. 14. Section 62.

UNDERTAKING OF OVERSEER OF THE POOR.

WHEREAS,, of the town of, in the county of, was, on the....day of, 18.., duly elected overseer of the poor of said town; now, therefore, we, the said, principal, and, of the town of, his surety, do hereby, pursuant to section 62 of the Town Law, jointly and severally undertake, to and with the town aforesaid, that the said..... will well and faithfully discharge the duties of his office, and will pay according to law all moneys which shall come into his hands as such overseer.

Dated this.....day of, 18..

.....
.....

(Acknowledge, justify and approve the same as in Form No. 7.)

One surety is sufficient.

Form No. 15. Section 63.

UNDERTAKING OF COMMISSIONER OF HIGHWAYS.

WHEREAS,, of the town of, in the county of, was on the.....day of, 18.., duly elected commissioner of highways; now, therefore, we, the said, principal, andand..... of the town of, his sureties, do hereby, pursuant to section 63 of the Town Law, jointly and severally undertake to and with the town aforesaid, that the saidwill faithfully discharge his duties as such commissioner, will within ten days after the expiration of his term of office, pay over to his successor all moneys remaining in his hands as such commissioner, and render to such successor a true account of all moneys received and paid out by him as such commissioner.

Dated this.....day of, 18..

.....
.....
.....

(Acknowledge, justify and approve the same as in Form No. 7.)

Form No. 16. Section 64.

RESIGNATION OF A TOWN OFFICER.

To.....,and, *Justices of the Peace of the Town of*
....., *in the County of*

I hereby tender my resignation of the office of (name the office) of said town for the following reasons: (Here state them.)

Dated this.....day of, 18..

.....

FORMS FOR TOWN LAW.

Form No. 17. Section 64.

NOTICE OF ACCEPTANCE OF RESIGNATION.

COUNTY OF....., } ss.:
TOWN OF....., }

To....., *Town Clerk of said Town:*

You are hereby notified, pursuant to section 64 of the Town Law, that we, the undersigned, justices of the peace of said town, have, for good cause shown, accepted the resignation of..... as (name the office) of said town.

Dated this.....day of....., 18..

.....
.....
.....

Justices of the Peace.

Form No. 18. Section 65.

APPOINTMENT TO FILL VACANCY.

COUNTY OF....., } ss.:
TOWN OF....., }

WHEREAS, a vacancy has occurred in the office of.....of said town, by the resignation (or otherwise) of.....; now, therefore, we, the undersigned, town board of said town, do hereby, pursuant to section 65 of the Town Law, appoint.....to fill the vacancy in the office of....., caused by the resignation (or otherwise) of the said....., to serve until the next annual town meeting.

Witness our hands and seals this.....day of....., 18..

(Signatures and seals of town board or majority.)

(If the appointment is made to fill a vacancy in the office of justice of the peace whose term of office expires on the 31st day of December preceeding the next town meeting, the appointment must expire at that time.)

The appointment should be at a legal meeting of the board.

Form No. 19. Section 65.

ORDER APPOINTING INSPECTOR OF ELECTION TO FILL VACANCY.

STATE OF NEW YORK, }
COUNTY OF....., } ss.:
Town of....., }

WHEREAS, a vacancy has occurred in the office of inspector of election in the first election district of the town of, aforesaid, by reason of a failure to choose or appoint inspectors of election at the last annual town meeting (or by

FORMS FOR TOWN LAW.

reason of their absence, or that they have ceased to be residents of such district, or that they are unable to attend and hold an election, as the case may be; now, therefore, we, the undersigned supervisor, town clerk and justices of the peace in such town, having duly met for the purpose of filling such vacancies, do hereby, by virtue of the power and authority vested in us by law, in order to fill such vacancies, designate and appoint.....and.....to be inspectors of election in the first election district, and.....and.....to be inspectors of election in the second election district of said town; each of the persons so appointed being electors of the election district for which he is appointed and qualified according to law.

In witness whereof we have hereto set our hands and seals this.....
[L. a.] day of.....A. D. 18..

(Signatures and seals.)

The order of appointment must be filed with the town clerk.

Form No. 20. Section 65.

APPOINTMENT OF A TOWN CLERK.

WHEREAS, The office of town clerk of the town of has become vacant by the death (or the removal from the state), of, the late town clerk, we do hereby appoint....., of said town, as town clerk thereof, to hold his office as such clerk until the next annual town meeting.

Witness our hands and seals at the town of, this day of, 18...

(Signatures and seals of town board or majority.)

Form No. 21. Section 65.

FORM OF WARRANT OF APPOINTMENT OF SUPERVISOR.

STATE OF NEW YORK, } ss.:
COUNTY OF....., }

WHEREAS, At the annual town meeting held in and for the town of aforesaid, on the Tuesday of March, A. D. 18..., the said town did omit or neglect to elect a supervisor for said town; now, therefore, we, the town board of said town, or a majority of them, by virtue of the power vested in us by the statute in such case made and provided, do hereby nominate and appoint, of said town, supervisor of said town, to hold said office until the next annual town meeting.

In witness whereof we have hereunto set our hands and seals this day of, A. D. 18...

(Signatures and seals of town board or majority.)

FORMS FOR TOWN LAW.

Form No. 22. Section 65.

FORM OF WARRANT OF APPOINTMENT OF ASSESSOR.

STATE OF NEW YORK, } ss.:
COUNTY OF, }

WHEREAS, At the annual town meeting, held in and for the town of aforesaid, on the Tuesday of March, A. D. 18..., the said town did omit or neglect to elect an assessor for said town; now, therefore, we, the undersigned town board of said town, or a majority of them, by virtue of the power vested in us by the statute in such case made and provided, do hereby nominate and appoint....., of said town, an assessor of said town to hold said office until the next annual town meeting.

In witness whereof we have hereunto set our hands and seals this day of, A. D. 18...

(Signatures and seals of town board or majority.)

Form No. 23. Section 65.

FORM OF WARRANT APPOINTING COLLECTOR IN CASE OF VACANCY.

STATE OF NEW YORK, } ss.:
COUNTY OF, }

WHEREAS, A vacancy exists in the office of collector of the town of by reason of the refusal to serve (or of the death, or resignation, or removal out of the town or ward, or his having become disabled from completing his duties, as the case may be) of, who was heretofore elected (chosen or appointed) to such office in said town; now, therefore, we, the town board of said town, or a majority of them, by virtue of the powers vested in us by the statute in such case made and provided, do hereby nominate and appoint, of said town of, collector of said town until the next annual town meeting.

In witness whereof we have hereunto set our hands and seals this day of, 18..

(Signatures and seals of town board or majority.)

Form No. 25. Section 65.

FORM OF WARRANT OF APPOINTMENT OF COLLECTOR.

STATE OF NEW YORK, } ss.:
COUNTY OF, }

WHEREAS, At the annual town meeting held in and for the town of, on the Tuesday of March, A. D. 18..., the said town did omit or neglect to elect a collector for said town; now, therefore, we, the undersigned town board of said town, or a majority of them, by virtue of the power vested in us by the statute in such case made and provided, do hereby nominate and appoint, of said town, collector of said town, to hold said office until the next annual town meeting.

In witness whereof we have hereunto set our hands and seals this ... day of, A. D. 18..

(Signatures and seals of town board or majority.)

FORMS FOR TOWN LAW.

Form No. 26. Section 65.

FORM OF WARRANT APPOINTING JUSTICE OF THE PEACE TO FILL VACANCY.

STATE OF NEW YORK, } ss.:
COUNTY OF, }

WHEREAS, A vacancy exists in the office of justice of the peace of the town of, by reason of the resignation (or refusal to serve, or death, or removal out of the town, as the case may be) of, who was heretofore elected (or appointed) to such office in said town; now, therefore, we, the undersigned town board of said town, or a majority of them, by virtue of the power and authority vested in us by the statute in such case made and provided, do hereby, for the purpose of filling said vacancy, nominate and appoint, of said town of, a justice of the peace in and for said town, whose official term will expire at the next annual town meeting in said town, as provided by law (or in case he is appointed to fill a term expiring with the thirty-first day of December, then say "will expire on the thirty-first day of December next").

In witness whereof we have hereunto set our hands and seals this day of, 18...

.....,
Supervisor of the Town of

.....,
Town Clerk of the Town of

.....,
Justices of the Peace of Town of

Form No. 27. Section 65.

NOTICE TO PERSON APPOINTED.

COUNTY OF, } ss.:
TOWN OF, }

To, Esq.:

You are hereby notified, pursuant to section 65 of the Town Law, that you have been appointed (name the office) of said town of, to fill the vacancy caused by the resignation (or otherwise) of, and you are required to take the oath of office, and file your undertaking within ten days after receiving this notice (except justices of the peace), as directed by section 51 of the Town Law.

Dated this day of 18..

.....,
Town Clerk.

Form No. 28. Section 84.

APPLICATION TO COMPEL DELIVERY OF BOOKS AND PAPERS.

FORM OF PETITION BY CLAIMANT.

In the matter of the application of }
..... to compel delivery of books }
and papers. }

BY
....., his predecessor in office. }

To Hon., County Judge of County:

Your petitioner, respectfully represents that, on at the annual town meeting held in the town of in the county of

FORMS FOR TOWN LAW.

..... was duly elected to the office of supervisor of said town for the term of one year from that day and until his successor should be elected, chosen or appointed; that he duly qualified as such officer and took possession of said office, and the records, books and papers belonging to said office, and has thence continued and now is in possession thereof (or until .. ., when he died, in case proceeding is against executor, etc.).

That your petitioner, at the annual town meeting held in said town on, was duly elected to the office of supervisor of said town for the year commencing on the day of such election; that the whole number of votes cast at said election was, of which were given for petitioner, and for—a majority of for petitioner, as was ascertained and determined by the board of town inspectors and canvassers, and as the same was announced, declared and promulgated on the day of said election (or was duly appointed to fill the vacancy in said office, occasioned by the death of said, as aforesaid, on the day of); that he has duly taken and subscribed the oath of office prescribed by the constitution and laws of this state, and has duly filed the same in the office of the town clerk of said town, on, and has also furnished and filed with the proper officers the security which as such supervisor he was required by law to give, which security has been duly approved, and that on said day of, he was duly qualified as supervisor of said town according to law, and since that day has been and now is the supervisor of said town.

That by virtue of said election (or appointment) and the other facts above set forth, your petitioner is the legal successor of said to said office, and as such was and is entitled to the possession of the records, books and papers now (or heretofore) in the possession and under the control of said belonging or appertaining to said office (in case of appointment to fill vacancy, allege that the said records, books and papers have come to, and are now in the possession of, executor or administrator of said); that such records, books and papers are described as follows: (here insert description thereof)

That on, your petitioner duly demanded said records, books and papers of said (or of said, executor or administrator of said, deceased) who then and there refused to deliver the same, or any of them, to him. (In case the demand was made of an executor or administrator, it should be alleged that he is a resident of the county, if the proceeding is before the county judge.)

Your petitioner, therefore, prays that your honor will issue an order requiring the said (or as such executor) to show cause before your honor on a day to be named therein, why he, the said (or executor, etc.) should not be compelled to deliver said records, books and papers to your petitioner, and why your petitioner should not have such further or other relief, or order, as may be proper.

That no previous application for such order has been made to any judge.

Dated

STATE OF NEW YORK, } ss.:
COUNTY OF, }

....., being duly sworn, says he is the petitioner named in foregoing petition; that he has read said petition and knows the contents thereof; that the

FORMS FOR TOWN LAW.

same is true of his own knowledge except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes to be true.

Subscribed and sworn to before me, }
this }

.....,
Notary Public.

Form No. 29. Section 84.

FORM OF ANSWER OF DEFENDANT.

(Title as in Form No. 28.)

And now comes the said, and for answer to the petition of..... filed herein, and served upon him, states, that he was elected supervisor of the town of at the annual town meeting in and discharged the duties as such, and that at the annual town meeting held, he was, as he is informed and believes, elected supervisor for said town for the year commencing, ending at the annual town meeting in, and that he received at the election, so held in, votes for the office of supervisor of said town, and that the petitioner,, received only votes for said office, as was ascertained and determined by the board of town inspectors and canvassers, and by the same was announced, declared and promulgated on by said board.

He denies that it was ascertained, declared and promulgated on said day, or at any other time, that said had received votes for said office of supervisor, or a majority of the whole number of votes cast for said office at said election; and denies that was elected at said election.

He also alleges that at said annual town meeting, the votes cast were publicly canvassed according to law, and, after the said canvass was completed, a statement of the result was entered at length, by the clerk of the meeting, in the minutes of its proceedings kept by him as required by law, and such minutes were publicly read by said clerk to the meeting, and it was ascertained and determined, announced, declared and promulgated that he,, had received a majority of the votes cast in said town at such election, for the office of supervisor of said town, and that on, he filed an oath of office and his official bond with the town clerk.

Wherefore he demands that this proceeding be dismissed.

Dated.....

....., *Attorneys for Defendant.*

(Verification same as that to petition.)

Form No. 30. Section 84.

FORM OF ORDER FOR DELIVERY OF BOOKS AND FOR COMMITMENT.

(Title same as in Form No. 28.)

WHEREAS, On, at my chambers, in the city of, New York, a petition in the above-entitled proceeding was presented to the under-

FORMS FOR TOWN LAW.

signed, county judge of.....county, by....., in substance that, at the annual town meeting held in the town of....., in the county of... .. on... ..said petitioner was duly elected to the office of supervisor of said town, for the ensuing year, having received votes out of the whole number of votes cast, to votes cast for....., at said election; that he had qualified himself to discharge the duties of said office by taking and filing the requisite oath of office and giving and filing the security required by law, and that....., his predecessor in said office, wrongfully withheld the records, books and papers belonging or appertaining to said office, after demand for the possession thereof made by said petitioner; and,

WHEREAS, The undersigned being satisfied by the oath of said.....so presented, that the records, books and papers mentioned in said petition, dated , were wrongfully and unlawfully withheld by said.....(or if by , executor or administrator, then, that he is a resident of said county), I granted an order requiring the said to show cause before me....., at ten o'clock in the forenoon, at my chambers in the city of , why he should not be compelled to deliver said records, books and papers to said....., and why said... ..should not have such further and other relief as may be just; and,

WHEREAS, At the time and place so appointed the said appeared before me and filed his answer to said petition, controverting and denying under oath the material allegations of said petition, and the said also appeared and filed before me proof of due service of a copy of said petition and order to show cause upon said , as required by said order, and I thereupon proceeded to inquire into the facts and circumstances of said matter, which inquiry and investigation was continued before me from day to day until this day, the matter having been duly and regularly adjourned, and the said..... not having made oath before me that he had truly delivered to said. the said records, books and papers as provided by the statute, and it satisfactorily appearing to me that the said..... was elected to the office of supervisor of the town of... .., and is the successor of said.... to said office of supervisor, and that said records, books and papers are still wrongfully and unlawfully withheld, and that said still neglects and refuses to deliver up the same to said

Now, after hearing....., Esq., attorney for said....., in support of said petition, and....., attorney for said.... , in opposition thereto, it is hereby

Ordered, that the said... .. forthwith deliver to said.....all the records, books and papers belonging or appertaining to the said office of supervisor of the town of , viz.: (here insert description thereof as stated in petition), which are in the possession or under the control of said , or in default thereof, that a warrant issue to the sheriff of the county of..... to commit said to the jail of the said county, there to remain until he shall deliver to said..... the said records, books and papers, viz.: (here repeat description as above) or to be otherwise discharged according to law. And the said.....having required it, it is

Ordered, that in case such default is made by said.....in the delivery of said records, books and papers, as aforesaid, a search warrant issue to the sheriff, or to any constable of the county of.....commanding him, in the

FORMS FOR TOWN LAW.

day-time, to search such places as shall be designated in such warrant, viz.: (here insert a particular description of the different buildings, etc., to be searched) for said records, books and papers, viz.: (repeat description of records, etc., as above) so withheld, and seize and bring them before the undersigned, for further action in the premises.

Dated.....

.....,
County Judge of.....County.

Form No. 31. Section 84.

FORM OF ORDER TO SHOW CAUSE.

(Entitled as in petition.)

On reading and filing the petition of....., bearing date....., 18.. (and if any other affidavits accompany it, specify them), and being satisfied by the same that the records, books and papers specified in said petition are unlawfully withheld from said petitioner by the said....., on motion of....., attorney for said petitioner, it is hereby ordered that the said..... show cause before me, at my chambers, in the City and County Hall, in the city of, New York, on the...day of....., 18.., at 10 o'clock in the forenoon of that day, why he should not be compelled to deliver the records, books and papers mentioned in said petition to said, and why said..... should not have such further and other relief as may be proper. Let a copy of this order and of the papers upon which the same was granted be served upon said..... personally, this day (or on or before a day named).

.....,
County Judge of.....County.

Form No. 32. Section 84.

FORM OF COMMITMENT.

The People of the State of New York, to the Sheriff of the County of.....:

WHEREAS (copy form 30 down to *) and proceed: These presents are, therefore, to command you, the sheriff of the county of....., and you are hereby commanded to take the body of said....., and commit him to the jail ofcounty, there to remain until he shall deliver the following described records, books and papers, viz.: (repeat description from above form), or be otherwise discharged according to law.

In witness whereof, I have hereunto set my hand and seal, at my chambers, in the city of, New York, this...day of, 18..

[L. s.]

.....,
County Judge of.....County.

FORMS FOR TOWN LAW.

Form No. 33. Section 84.

SEARCH WARRANT.

If a search warrant is demanded, when issued, it may be in the following form:

The People of the State of New York to the Sheriff or any Constable of..... County :

WHEREAS (copy form 30 to *), and said having required a search warrant to be issued as provided by law, you, the said sheriff of.... county, and any constable of said county, are hereby commanded to search, in the day-time, the (here insert a description of the premises to be searched) for said records, books and papers, viz.: (here give description as stated in the above order), and seize and bring them before the undersigned.

In witness whereof, I have hereunto set my hand and seal, at my chambers, in the city of....., New York, this....day of....., 18..

[L. S.]

.....
County Judge of.....County.

Form No. 34. Section 84.

(Another set of forms under this section.)

COMPLAINT TO COMPEL DELIVERY OF BOOKS, ETC., TO SUCCESSOR.

STATE OF NEW YORK, } ss.:
COUNTY OF....., }

To the Hon., Justice of the Supreme Court :

...., of said county, being duly sworn, makes complaint against, late commissioner of highways of the town of in said county, and says: that the deponent was duly elected commissioner of highways of said town of, at an annual town meeting of such town, held on the day of, 18...; that he has taken and filed the oath prescribed by law, and has given the requisite bond.

That by virtue of such election he is successor to the said, late commissioner as aforesaid. That he has required and demanded that the said deliver over to him, as such successor, all the records, books and papers in his possession or under his control, belonging or appertaining to the said office of commissioner of highways.

And this deponent further alleges that said has refused and neglected so to deliver such records, books and papers, or any part thereof, and that as this deponent is informed and believes, said has in his possession or under his control, the following records, books and papers appertaining to the said office of commissioner of highways (insert description if known, if not, say so), and that he unjustly and unlawfully withholds the same from this deponent.

Sworn to, etc.

.....

Form No. 35. Section 84.

ORDER THEREUPON GRANTED.

STATE OF NEW YORK, } ss.:
COUNTY OF....., }

Complaint having been made to me, the undersigned, as follows, to-wit: (insert a copy of the complaint), and being satisfied by the oath of the said complainant

FORMS FOR TOWN LAW.

(add "and other testimony offered" if any such was offered), that the said books and papers (or either, according to the fact) are withheld as aforesaid, I, therefore, pursuant to the provisions of the statute in such case made and provided, do hereby order and direct the said, the person so refusing, to show cause before me at my office in the city of in said county, on the . . . day of instant at 10 o'clock in the forenoon, why he should not be compelled to deliver the same books and papers (or either as the case may be).

Dated, etc.

(Signature.)

Form No. 36. Section 84.

AFFIDAVIT OF DELIVERY.

STATE OF NEW YORK, }
COUNTY OF, } ss.:

., of said county, being duly sworn, says, that he is the person mentioned and described as late commissioner of highways of the town of in said county, in a certain affidavit and complaint made by one before the Hon. justice of the Supreme Court, on the . . . day of, 18. . ., and that he has truly delivered over to his successor in said office of commissioner of highways, all the books, records and papers in his custody or appertaining to his said office, within his knowledge.

Sworn, etc.

.

Form No. 37. Section 84.

WARRANT TO COMMIT THE PERSON WITHHOLDING.

The People of the State of New York, to the Sheriff of the County of:

Complaint having been made to the undersigned, as follows, to-wit: (insert a copy of the complaint). Whereupon, pursuant to the provisions of the statute, being satisfied by the oath of the said complainant (add "and other testimony offered," if any such was offered), that the said books and papers (or either, according to the fact) were withheld as aforesaid, the undersigned granted an order, directing the said, the person so refusing, to show cause before the undersigned, at, etc. (as in the order), why he should not be compelled to deliver the same books and papers (or either, as the case may be) at which place and time so appointed (or if at any other time, to which the matter was adjourned, so state), upon due proof being made of the service of the said order, the undersigned proceeded to inquire into the circumstances, and the said having omitted to make the oath prescribed by the statute in such case made and provided, and it appearing to the undersigned that the said books and papers (or either of them, to be described) are withheld as aforesaid;* now, therefore, you are commanded that you take the said, if he may be found in your bailiwick, and commit him to the jail of the said county of; there to remain until he shall deliver the said books and papers (or either or such of them as are withheld), or be otherwise discharged according to law.

Witness,, justice of the Supreme Court, at the city of this . . . day of, 18. . .

[L. s.]

(Signature.)

FORMS FOR TOWN LAW.

Form No. 38. Section 84.

SEARCH WARRANT FOR SUCH BOOKS OR PAPERS WITHHELD.

The People of the State of New York, to the Sheriff of the County of....., or to any Constable of any Town in said County :

(As in the form above to.*) And the undersigned being required by the said complainant,, to issue this warrant; now, therefore, you are commanded, in the day-time, to search 's house, situated (insert a particular designation or description of the said house, and of any other place to be searched), for the said books and papers (or either of them, as the case may be), so withheld, and all other such books and papers as belonged to the said, as commissioner of highways, as aforesaid, in his official capacity, and which appertain to the said office of commissioner of highways, and seize and bring them before the undersigned.

Witness,, justice of the Supreme Court, at the city of , this day of, 18...

(Signature and seal.)

Form No. 39. Section 84.

RECEIPT BY SUCCESSOR.

I have this day received from, late of the town of, in the county of, N. Y., being the balance of town moneys remaining in his hands as ascertained by the auditors of town accounts ;

Also vouchers numbered to, both inclusive, in support of his charges for disbursements, said numbers corresponding with the numbers in his cash account — which disbursements amount in the aggregate to dollars cents ;

Also two bound account-books, one copy Banks & Bros.' Seventh Edition Revised Statutes of New York and one copy Cothran's Law of Supervisors.

Dated

.....
..... of Town of

Form No. 40. Section 100.

APPORTIONMENT OF DIVISION FENCE BY OWNERS.

We, the undersigned, and, adjoining land-owners of the town of, in the county of, hereby divide and apportion the division fence between our lands as follows :

..... is to maintain and keep in repair all that portion of the fence (here describe it), and is to maintain and keep in repair all that portion of the fence (here describe it).

Dated this day of, 18...

.....
.....

FORMS FOR TOWN LAW.

Form No. 41. Section 101.

NOTICE THAT OWNER INTENDS TO LET HIS LANDS LIE OPEN.

To, *Req.*:

Notice is hereby given that I intend to let my lands adjoining you (here describe them), lie open, pursuant to section 101 of the Town Law.

Dated this day of, 18...

.....

Form No. 42. Section 101.

NOTICE OF INTENTION TO INCLOSE LANDS.

To, *Req.*:

You are hereby notified, pursuant to section 101 of the Town Law, that I intend to inclose my lands now lying open, adjoining your lands, and you are hereby requested to build and maintain your proportion of the division fence (or as the case may be).

Dated this day of, 18...

.....

Form No. 43. Section 101.

CERTIFICATES OF FENCE VIEWERS ON INCLOSING LANDS.

COUNTY OF..... } ss.:
TOWN OF..... }

WHEREAS, and, being the owners of certain adjoining lands in the said town of, and the said having, on or about the day of, 18..., erected a division fence between the lands belonging to himself and those of, who allowed his lands to lie open; and

WHEREAS, The said has recently inclosed the said land belonging to him, and a disagreement has arisen between the said parties as to the value of the said fence, and the proportion to be maintained by each; now, therefore, we, the undersigned fence viewers of said town, duly chosen by the aforesaid parties to hear and determine the matter, pursuant to section 103 of the Town Law, after due notice to each of said owners of the time and place of this meeting, and after viewing the premises and hearing the parties, and all evidence produced, do determine as follows: That the following is a correct description of the fence built by the said, as aforesaid (here describe it); that the value of the fence, at the time of erecting the same, was \$.....; that shall maintain and keep in repair that portion of the fence (here describe it), and that shall maintain and keep in repair that portion of the fence (here describe it), and that pay to the sum of \$..... as his just proportion of the value of the fence so built and maintained by, and that each pay one-half of the costs and expenses of this proceeding, which are \$.....

Dated this day of, 18...

.....
.....

Fence Viewers.

FORMS FOR TOWN LAW.

Form No. 44. Section 102.

DECISION OF FENCE VIEWERS WHEN TRANSFER OF TITLE HAS BEEN MADE.
COUNTY OF } ss.:
TOWN OF.....

WHEREAS, a dispute has arisen between and
adjoining owners of land in said town, in regard to the division fence between
said lands, caused by a transfer of title of a portion of the adjoining lands owned
by (or as the case may be); now, therefore, we, the undersigned
fence viewers of said town, having been duly chosen by the said owners to hear
and determine the matter, pursuant to sections 102 and 103 of the Town Law, and
having given due notice to each owner of the time and place of this meeting, and
having viewed the premises and heard the parties and evidence produced, do hereby
determine and decide that the following is a correct description of the said divi-
sion fence (here describe it); that the said shall maintain and keep
in repair that portion of the fence (here describe it), and that said.....
shall maintain and keep in repair that portion of the fence (here describe it), and
we further determine that the value of fence between said lands, at the time of
such transfer of title, was \$....., and that the said shall
pay to said \$....., as his proportion for said fence (or as
the case may be), and that each pay one-half (or as the case may be) of the costs
and expenses of this proceeding, which are \$....

Dated this day of, 18..

.....,
.....,
Fence Viewers.

Form No. 45. Section 103.

CERTIFICATE OF APPORTIONMENT OF DIVISION FENCE.

COUNTY OF } ss.:
TOWN OF.....

WHEREAS, a dispute has arisen between and
adjoining owners of land in said town, concerning the apportionment of the
division fence between said lands; now, therefore, we, the undersigned fence
viewers of said town, duly chosen to hear and determine the dispute, pursuant
to section 103 of the Town Law, after giving due notice to said owners of the
time and place of this meeting, and having viewed the premises, heard the parties
and the evidence produced, do hereby determine that the following is a correct
description of the said division fence: (describe it); that the said
shall maintain and keep in repair all that portion of the fence (here describe it),
and that..... shall maintain and keep in repair all that portion of the
fence (here describe it), and that each pay one-half (or as the case may be) of
the costs and expenses of this proceeding, which are \$.....

Dated this....day of, 18..

.....,
.....,
Fence Viewers.

FORMS FOR TOWN LAW.

Form No. 46. Section 103.

NOTICE TO SELECT FENCE VIEWER.

To....., Esq. :

You will please to take notice that in consequence of the dispute between you as owner (or occupant) of , situate in the town of....., in the county of..... N. Y., and the undersigned as owner (or occupant) of , in the township, range and section aforesaid, and which adjoins your farm on the east side thereof, in relation to the just proportion of the line fence between the said two farm lots that should be built and maintained by each of us (or as to the amount you should pay me for your just proportion of the fence heretofore erected and now maintained by me), I have this day selected , one of the commissioners of highways of said town, as one of the fence viewers of said town to examine into and determine such dispute, and that you are required, within eight days from the service of this notice, to select one of the fence viewers of said town to act with the said in the matter aforesaid, and that in case you neglect to select such fence viewer within eight days after the service of this notice, I shall select the second fence viewer, as provided by law in such case.

Dated....., 18.

.....

Form No. 47. Section 104.

SUBPENA BY FENCE VIEWER.

STATE OF NEW YORK, }
COUNTY OF } ss.:

The People of the State of New York, to and:

You and each of you are hereby required personally to appear before the undersigned and , fence viewers of the said town, at (insert the place) on the day of , 18.., at ... o'clock in the ... M., to testify in regard to the matter in difference between and , in regard to their division fence on the part of And for a failure to attend you will be deemed guilty of a contempt, and will be proceeded against in the manner provided by the statute.

Dated this day of , 18...

.....
.....

Fence Viewers.

Form No. 48. Section 105

APPRAISEMENT OF DAMAGES BY FENCE VIEWERS FOR NEGLECT TO BUILD OR REPAIR DIVISION FENCE.

STATE OF NEW YORK, }
COUNTY OF } ss.:

WHEREAS, and are owners of adjoining lands in said town, and each liable to make and maintain a just proportion of the division fence between said lands, which said fence has been apportioned and divided between them; and

FORMS FOR TOWN LAW.

WHEREAS, has neglected (or refused) to maintain and keep in repair his portion of said fence, by reason of which refusal or neglect his cattle (or as the case may be), entered the premises of said on the day of 18.., and damaged the property of said; now, therefore, we, the undersigned, fence viewers of said town, duly chosen by said parties to appraise the said damages, due notice of the time and place of this meeting having been given, and after viewing the premises and hearing the parties and evidence produced, do, pursuant to section 105 (or 108) of the Town Law, hereby appraise the damage sustained by reason of the refusal (or neglect) of said to maintain or repair his portion of said division fence, at \$, to be paid by with the costs and expenses of this proceeding, which are \$

Dated this day of, 18...

.....,
.....,
Fence Viewers.

Form No. 49. Section 105.

NOTICE TO BUILD OR REPAIR DIVISION FENCE.

To, Esq.:

You are hereby notified and required, pursuant to section 105 of the Town Law, to build and maintain (or repair) your portion of the division fence between your lands and the lands of the undersigned, beginning (state where fence is to be built or repaired) within one month after receiving this notice, in default of which I shall cause the same to be built (or repaired) at your expense.

Dated this day of, 18...

.....

Form No. 50. Section 105.

ANOTHER FORM OF NOTICE TO REPAIR.

To

Take notice that the portion of the division fence between your farm and the farm of the undersigned, situated in the town of, county, N.Y., and which has been heretofore determined (or mutually agreed upon between us) that you shall keep and maintain commencing on the boundary of the and extending back therefrom sixty rods is out of repair, and that you are required to put the same in proper state of repair at once. You will also take notice that unless you put such portion of said division fence in proper state of repair within one month from the service of this notice, that the undersigned will, upon the expiration of said month, proceed to repair said division fence at your expense, in accordance with the statute in such case made and provided.

Dated this day of, 18..

.....

FORMS FOR TOWN LAW.

Form No. 51. Section 106.

NOTICE TO BUILD FENCE DESTROYED BY ACCIDENT.

To :

You are hereby notified and required, pursuant to section 106 of the Town Law, to build (or repair) your proportion of the following fence, to-wit: (Here describe the fence) injured (or destroyed) by (state how) within ten days after receiving this notice; in default of which I shall cause the same to be built (or repaired) at your expense.

Dated this day of, 18..

.....

Form No. 52. Section 106.

ANOTHER FORM OF NOTICE TO REPAIR DIVISION FENCE.

To:

Take notice that a portion of the division fence between your farm and the farm of the undersigned, situated in the town of, in the county of ... , N. Y., and which has heretofore been determined that you shall maintain, has recently been injured (or destroyed) by a freshet, and you are required to repair (or make) the same at once. You will also take notice that, in case you refuse or neglect to make (or repair) such division fence within ten days from the date of the service of this notice, I shall proceed to make (or repair) the same at your expense.

Dated this day of, 18..

.....

Form No. 53. Section 106.

APPRAISEMENT OF DAMAGES BY FENCE VIEWERS FOR OMISSION TO BUILD FENCE.

(Form No. 48 can be used for this case.)

Form No. 54. Section 121.

NOTICE OF STRAYS, FOR TOWN CLERK.

To all persons whom it may concern :

You are hereby notified, pursuant to section 121 of the Town Law, that the undersigned, a resident of the town of, in the county of, N. Y., has on his inclosed lands a strayed horse (or as the case may be), and the following is a description of the said horse (or as the case may be, giving age, color, etc., as near as may be) and that he claims a lien on such horse (or as the case may be) for his damage, charges and costs.

Dated this day of, 18...

.....

FORMS FOR TOWN LAW.

Form No. 55. Section 121.

ANOTHER FORM OF NOTICE TO TOWN CLERK.

To, *Town Clerk of Town of*, *N. Y.* :

Take notice that I, the undersigned, whose place of abode is at, in said town, have upon my inclosed land one strayed horse, who came upon my said inclosed land on the day of, 18.. The horse is apparently eight years old, entirely black in color, except a white star on his forehead and a white ring around two of his ankles, doubtless the result of using hobbles. The ownership of such horse is unknown to the undersigned. I claim a lien on said horse for damages, charges, fees and costs.

Dated this day of, 18..

.....

Form No. 56. Section 123.

NOTICE TO OWNERS OF STRAYS.

To, *Esq.* :

You are hereby notified, pursuant to section 123 of the Town Law, that the undersigned, a resident of the town of , in the county of , has upon his inclosed lands (or in pound, as the case may be) the following animals belonging to you (here describe them) and that the same are being held as strays (or beasts doing damage, as the case may be).

Dated this day of, 18...

... ..

Form No. 57. Section 127.

NOTICE OF SALE BY FENCE VIEWER.

Notice is hereby given that, whereas, on the....day of....., 18.., there strayed on the inclosed land of....., in the town of....., a (describe the animals), and the same not having been redeemed by the owner thereof; now, therefore, in pursuance of section 127 of the Town Law, the fence viewers of said town will expose the same for sale at public auction to the highest bidder, on the....day of, 18.., at..o'clock in the....noon at (state where), unless redeemed by the owner.

Dated this....day of....., 18..

.....,
Fence Viewer.

Form No. 58. Section 129.

NOTICE TO OWNERS OF FENCE VIEWERS' MEETING.

To....., *Esq.* :

You are hereby notified, pursuant to section 129 of the Town Law, that the fence viewers of the town of....., in the county of....., will meet at my residence, in said town, on the....day of...., 18.., for the purpose of assessing the damages done by your beasts on my inclosed lands in said town, and the charges and expenses for keeping the same.

Dated this....day of....., 18..

.....

FORMS FOR TOWN LAW.

Form No. 61. Section 162.

CERTIFICATE OF TOWN BOARD, TO BOARD OF SUPERVISORS.

COUNTY OF }
TOWN OF } ss.:

We, the undersigned, a majority of the town board of said town, do hereby certify, pursuant to section 162 of the Town Law, that having convened and organized at the time and place, and in the manner prescribed by section 160 of the Town Law, for the second meeting of the town board, we proceeded to examine, audit accounts, and allow or reject charges, claims and demands, presented against said town, and the following is a correct statement of the accounts so audited and allowed by us wholly or in part or rejected.

NAMES OF CLAIMANTS.	Nature of demand.	Amount claimed.	Items allowed in part.	Items rejected.	Amount allowed.

Dated this day of, 18...

.....
Supervisor.

.....
Town Clerk.

.....
.....
.....

Justices of the Peace.

Form No. 62. Section 163.

NOTICE OF APPEAL TO BOARD OF SUPERVISORS.

To, Town Clerk of the Town of in the County of
and Clerk of the Board of Supervisors of said County:

Take notice that the undersigned, a tax payer of said town of (or justice of the peace or constable), hereby appeals, pursuant to section 163 of the Town Law, to the board of supervisors of said county, from the auditing and allowance, by the town board of said town, of the amount claimed by, a justice of the peace of said town, for fees (or from the rejection and disallowance by the town board of said town, of my claim for fees) in criminal proceedings, as follows: (Here state the claim allowed or disallowed.)

Dated this day of, 18...

FORMS FOR TOWN LAW.

Form No. 63. Section 164.

JUSTICE'S ACCOUNT AGAINST COUNTY IN CRIMINAL MATTER.

The County of *to* *Justice of the Peace of the Town of*
 *in said County, Dr.*

The People vs.

....., 18.. Name of complainant,, who resides at, in said town.

Offense charged was grand larceny.

Upon information taken and filed, I issued a warrant for the arrest of defendant.

Warrant was delivered to , constable of said town.

....., 18.. Defendant was arrested and brought before me.

Defendant demanded an examination (or as the case may be), which was had, and the following witnesses were sworn on such examination, viz.: (Here name them.)

Defendant was held to answer the charge of grand larceny and admitted to bail (as the case may be).

To administering oath to complainant..... 10 cents.

Drawing information 25 cents.

(In same manner make itemized account of fees.)

STATE OF NEW YORK, }
 COUNTY OF } ss.:

....., being duly sworn, says he is the claimant named in the foregoing claim; that the items of such account as above set forth are correct, and that the disbursements and services charged therein have been in fact made or rendered, and that no part thereof has been presented to any preceding board of supervisors for audit or allowance, and that no part thereof has been paid or satisfied.

Subscribed and sworn to before me, }
 this day of, 18... }

.....,

Justice of the Peace.

Form No. 64. Section 164.

JUSTICE'S ACCOUNT AGAINST TOWN IN CRIMINAL MATTERS.

The Town of *to* *Justice of the Peace, residing at*
 *in said town, Dr.*

18...

..... The People v.

Name of complainant,, who resides at, town of

Offense charged was breach of the peace and threatening to commit a crime.

Upon the information taken and filed, I issued a warrant for arrest of defendant.

Warrant delivered to....., constable of said town.

FORMS FOR TOWN LAW.

..... Defendant was arrested and brought before me.
 On being arraigned and the charge read to him, he pleaded guilty, whereupon
 I held him to bail in the penal sum of \$500, to keep the peace and abide
 the order of the next Court of Sessions, etc. Or
 (When prisoner was brought before justice, proceed according to the fact.)
 Defendant demanded examination, which was had. The following witnesses
 were sworn on such examination, viz.: A. B., C. D., E. F.
 Defendant was charged (or was fined \$10).
 To administering oath to complainant 10
 Drawing information 25
 Filing information 05
 Taking depositions of witnesses on application for warrant, at
 25c.....
 For warrant of arrest issued 25
 (But no fee for issuing a warrant for assault and battery shall be
 allowed)..... 25
 Indorsing warrant from county of Genesee..... 25
 Warrant of commitment 25
 Subpoena..... 25
 Five copies subpoena for services, at 10 cents each..... 50
 Certificate
 Drawing undertaking of bail 25
 Taking two acknowledgments thereto 50
 Two days' attendance on hearing or examinations..... \$3 00
 Necessary adjournment..... 25
 Venire for jury 25
 Swearing five witnesses, at 10 cents 50
 Swearing jury 25
 Preparing return to appeal.....
 (In like manner give each item of claim.)

Total of claim \$

STATE OF....., } ss.:
 COUNTY OF....., }

....., being duly sworn, says he is the claimant named in the fore-
 going claim; that the items of such account, as above set forth, are correct, and
 that the disbursements and services charged therein have been in fact made or
 rendered, or necessary to be made or rendered, at this session of the board, and
 that no part thereof has been presented to any preceding board of audit for audit
 and allowance, and that no part thereof has been paid or satisfied.

Sworn to before me, this ... }
 day of....., 18.., }

.....
Justice of the Peace
 108

FORMS FOR TOWN LAW.

Form No. 65. Section 167.

FORM OF ACCOUNT FOR SERVICES.

To the Board of Town Auditors :

The undersigned presents the following just and true statement of the nature of the services performed by him, and of the time actually and necessarily devoted to the performance of such services on which said amount is predicated :

THE TOWN OF

To

18...

To (here give itemized account.)

Dr.

Dated this .. day of, 18...

STATE OF NEW YORK, } *ss.:*
COUNTY OF, }

... .., being duly sworn, says he is the person mentioned as claimant in foregoing account ; that the items of such account are correct, and the disbursements and services charged therein have been in fact made or rendered, or are necessary to be made or rendered, at the next session of this board, and that no part thereof has been paid or satisfied.

(Jurat.)

Form No. 66. Section 170.

ABSTRACT FOR BOARD OF SUPERVISORS.

COUNTY OF, } *ss.:*
TOWN OF, }

The undersigned, town board of said town, pursuant to section 170 of the Town Law, hereby certify that the following is a correct abstract of the names of all persons who have presented to said board accounts to be audited, the amounts claimed by each of said persons, and the amounts finally audited to them respectively :

NAMES.	Amount claimed.	Amount audited.

Dated this day of, 18...

.....,

Supervisor;

.....

Town Clerk;

.....,

.....,

.....,

.....,

Justices of the Peace.

FORMS FOR TOWN LAW.

Form No. 57. Section 171.

APPOINTMENT OF FIREMEN.

STATE OF NEW YORK, }
COUNTY OF } ss.

We, the undersigned board of town auditors of the town of, or a majority of them (the others having been duly notified but failed to attend), having met and deliberated on the subject of this appointment, do, by virtue of the power and authority vested in us by law, hereby appoint the following inhabitants of said town firemen in and for the said town of, and members of Engine Company No. 1: to-wit: (Name them.)

Given under our hands this day of , 18...

.....
Supervisor of Town of

.....
.....
.....

Justices of the Peace.

(Majority of Town Board.)

Form No. 68. Section 172.

APPLICATION FOR ELECTION OF TOWN AUDITORS.

To the Electors of the Town of, in the County of

The undersigned, twenty freeholders of the town of, in said county, make application for the submission to the electors of said town, at the next annual town meeting to be held therein, to be determined by ballot, the question whether there shall be elected, at the next succeeding annual town meeting to be held in said town, a board of town auditors, in and for the said town, independent of the town board, in the manner and under the restrictions prescribed in section 173 *et seq.* of the Town Law.

Dated the day of , 18...

(Sign here.)

Form No. 69. Section 190.

NOTICE OF RESOLUTION TO BUILD A TOWN HOUSE.

Take notice that at the next annual town meeting of the town of, to be held on the day of, 18.... I shall propose a resolution authorizing the sum of \$2,000 to be raised for the purpose of buying a site, and erecting thereon a town house for the use of said town.

Dated the day of, 18....

.....

Form No. 70. Section 190.

PROOF THAT RESOLUTION PASSED AT TOWN MEETING.

STATE OF NEW YORK, }
..... COUNTY, } ss.:

Resolved, That the sum of \$2,000 be raised in the town of, for the purchase of a site, and erecting thereon a building to be used as a town house for said town.

FORMS FOR TOWN LAW.

We hereby certify that at the annual town meeting of the town of....., held on the....day of....., 18., at the house of....., a resolution was adopted by a majority vote of the electors present at said meeting, of which the foregoing is a copy.

Dated this....day of.....

.....
.....
.....

*Justices of the Peace, and the
Board of Canvassers at said meeting.*

Form No. 71. Section 190.

RESOLUTION OF SUPERVISORS DIRECTING THE MONEY TO BE RAISED.

(For title to resolution, see Form No. 2 of County Law.)

WHEREAS, At the last meeting of the town of....., a resolution was passed for the purpose of raising money to buy a site and build a town house for the use of said town; therefore,

Resolved. That the sum of \$2,000 be raised and collected in the said town of for the purpose of buying a lot and erecting thereon a town house for the use of said town.

Form No. 72. Section 210.

ANNUAL REPORT OF TOWN INDEBTEDNESS.

To the Board of Supervisors of.....County :

The undersigned, supervisor of the town of...., in said county, pursuant to sections 210 and 211 of the Town Law, hereby reports the amount of public indebtedness of said town as follows:

Bonds or other evidences of debt issued, etc.	Act under which bonds were issued.	Rate of interest.	Amount unpaid at time of election of supervisor.	Amount of indebtedness paid at this date.	Amount coming due during my term of office.

Dated this....day of....., 18.

.....

Supervisor.

INDEX TO TOWN LAWS.

	Section
Abstract for board of supervisors.....	170
Accident, division fence destroyed by	106
Accounts of justices in criminal matters.....	164
to be made out in items.....	167
Act authorizing payment of debts, p. 67.	
towns to raise additional money, etc., p. 62.	
declaratory of Model Town Company, p. 80h-80j.	
providing for construction of drains, etc., p. 70.	
for erection of town hall, p. 80.	
for improvements, etc., p. 75.	
regulating hacks, etc , p. 63.	
division fences, 80k.	
relating to accounts of overseers of poor, p. 65.	
to assessors, p. 80, 80a.	
to Memorial day, p. 61.	
to public improvements in towns, etc., p. 53.	
to refuse and garbage, p. 80g.	
to confer further powers, etc , p. 79.	
establish lamp or lighting districts, etc., p. 66.	
extend power of town boards, p. 66.	
Actions for trespass on town lands.....	183
Additional inspectors of election.....	19
Annual reports of supervisor to board of supervisors.....	210
Appeal from town board to board of supervisors	163
Appointment of appraisers..	146
of wreck-master.....	150
Apportionment of debts	4
of division fence.....	100
Appraisers, appointment of.....	146
Assessors	15
Ballots for full term and vacancies.....	20
notice of propositions to be determined by, at town meetings.	31
transaction of business at town meeting not requiring a.....	32
Balloting at town meetings.....	38
Beasts and strays doing damage.....	120
Blank books and furniture for clerk's office	85
Board of supervisors, abstract for	170
annual reports of supervisor to ..	210
appeal from town board to.....	163
Board of town auditors to be elected.....	173
Books and papers, delivery of, by outgoing officer to successor...	84
Burial ground, electors may choose trustees of.....	193

INDEX.

	Section.
Burial ground, trustees to lay out.....	194
when to belong to town.....	195
Business of town meeting.....	226
Cancellation of town bonds.....	214
Canvass at town meeting, in case no justice present.....	225
of votes at town meeting	39, 224
Certificate of election of justices.....	57
Challenges at town meetings	30
Change of title, division fences on.....	102
Changing place of annual town meeting	11
Charges for notices of strays.....	124
Cities and villages deemed towns.....	134
Claim for salvage	143
Claimant, delivery of wreck or proceeds to.....	140
undertaking of.....	141
Clerk of town meetings.....	28
Clerk's office, furniture and blank books for.....	85
sign for.....	86
Closing and opening polls at town meeting, proclamation of.....	35
Collector, term of office of	221
undertaking of.....	52
Collector's undertaking, filing and lien of.....	53
Commissioners of excise.....	16
undertaking of.....	61
Commissioners of highways.....	17
undertaking of	63
Compensation of town auditors.....	176
of town officers	178
Constables, special	43
term of office of.....	231
undertaking of	54
Constitution of town board.....	160
Construction of town law.....	242
Control of town house.....	191
Conversion of floating lumber, penalty for	136
Coroners, powers and duties of, as to wrecked property.....	138
County clerk to report omissions of town officers	67
Criminal matters, accounts of justices in	164
Damages for insufficient division fence.....	107
for omitting to build division fence.....	108
from inanimate goods.....	135
strays and beasts doing.....	120

INDEX.

	Section.
Debts, apportionment of.....	4
Delivery of books and papers by outgoing officer to successor.....	84
of wreck or proceeds to claimant.....	140
Detention of wrecked property.....	145
Division fence, apportionment of.....	100
damages for insufficient.....	107
damages for omitting to build.....	108
destroyed by accident....	106
neglect to make or repair.....	106
on change of title.....	102
settlement of disputes as to.....	103
Discontinuance of pounds.....	36
Disposition and sale of wrecked property.....	147
of town property, upon alteration of town boundaries.....	3
Duplicate reports of supervisor.....	213
Duration of town meetings.....	29
Duties and fees of pound-master.....	132
of coroners as to wrecked property.....	138
of fence viewers as to strays.....	130
of sheriffs as to wrecked property.....	138
of supervisor.....	80
of town clerk.....	83
of wreck-masters.....	138, 144
Election, additional inspectors of.....	19
districts in towns.....	223
notice of, to be published.....	227
of justices, certificate of.....	57
of pound-masters.....	37
of town auditors.....	172
of town officers.....	12, 220
Electors may choose trustees of burial ground.....	193
Eligibility to town offices.....	50
Erection of pounds.....	36
of town house.....	191
Excise, commissioners of.....	16
Excise moneys, how disposed of.....	181
Fees of fence viewers.....	125
of officers in criminal proceedings, when town or county	
charge.....	165
of pound-master.....	132, 179
traveling, in subpœnaing witnesses.....	169
Fence viewers.....	23

INDEX.

	Section.
Fence viewers, duties of, as to strays	130
fees of	125
notice of sale of strays by	127
notice to owner, of meeting....	129
powers of	104
Filing of collector's undertaking	53
Filling of vacancies of town offices	65
Fire companies, town ..	171
Fires in woods	82
Fiscal year in towns	222
Floating lumber, penalty for conversion of	136
Foreclosure of lien on strays by action	131
Form of reports of supervisor ..	211
of undertaking of town officers	66
Full term, ballots for	20
Furniture and blank books for clerk's office	85
General duties of supervisor	80
of town clerk	83
Highways, commissioners of	17
refusal to serve as overseers of	55
How towns to make contracts	182
to sue and be sued	182
Impounding strays	122
Inanimate goods, damages from	135
Inspectors, additional, of election	19
of election at town meeting	224
Items, accounts to be made out in	167
Justices, accounts, in criminal matters	164
certificate of election of	57
in new towns	21
of the peace	14
undertaking of	58
when more than four may hold office	23
Lands, when may lie open	101
Laws repealed	240
Liability on undertaking of town officers	66
Lien of collector's undertaking	53
of strays, when may be foreclosed	126
on strays, foreclosure of, by action	131
Lock-ups	192
Meeting, first, of town board	161
of town boards	223

INDEX.

	Section.
Meeting of two or more towns	5
regular, of town board	160
second, of town board	162
Minutes of proceedings of town meetings	31
Municipal corporation, a town	2
Neglect to make or repair division fence	105
New towns, justices in	21
Notice of election to be published	227
of propositions to be determined by ballot at town meetings,	34
of sales of wrecked property, publication of	148
of sale of strays by fence viewers	127
of strays, charges for	124
of town meetings	26
of wrecked property, publication of	149
to owners of strays	123
to owner of strays of fence viewers' meeting	129
to town clerk of strays	121
Oath of office of town officers	51
Oaths, town officers to administer	56
Office, term of, of collector	221
of constables	231
of persons in office	232
of town officers	13, 220
of town clerk	221
when more than four justices may hold	22
Officer, delivery of books and papers by outgoing, to successor ..	84
Officers, presiding, of town meetings	27
Official acts legalized	59
oath of town officers	230
Omissions of town officers, county clerk to report	67
Owners of strays, notice to	122
notice to, of fence viewers' meeting	129
Opening and closing polls at town meeting, proclamation of	35
Overseers of highways, refusal to serve as	55
of poor	18
undertaking of	62
Pay of town officers	166
Penalty for conversion of floating lumber	136
Persons in office, term of office of	232
Place of annual town meeting	10
Poor, overseers of	18
Pound-masters, duties and fees of	132

INDEX.

	Section
Pound-masters, election of	37
fees of.... ..	179
refusal to serve as.....	55
Pounds, discontinuance of	36
erection of.....	36
Powers of annual town meetings.....	24
conferred upon town auditors.....	174
of coroners, as to wrecked property.....	138
of fence viewers.....	104
of sheriff, as to wrecked property.....	138
of wreck-masters.....	138
Presiding officers of town meetings.....	27
Proclamation of opening and closing polls at town meetings.....	35
Proceeds of sale of strays.....	128
of wreck, delivery of, to claimant	140
Publication of notices of sales of wrecked property	148
of notice of wrecked property.....	148
of reports of supervisor	219
Recovery of wrecked property	137
Refusal to serve as overseer of highways	55
as pound-master	55
Resignations of town officers	64, 228
Sale and disposition of wrecked property.....	147
of strays, proceeds of.....	128
of wreck.....	139
Salvage, claim for.....	143
Saving clause.....	168, 241
Settlement of disputes as to division fences.....	103
Sheriffs, powers and duties of, as to wrecked property.....	138
Short title.....	1
Sign for clerk's office.....	86
Special constables.....	43
town meetings.....	25
Strays and beasts doing damage.....	120
Strays, charges for notice of.....	124
duties of fence viewers as to	130
foreclosure of lien, by action.....	131
impounding.....	122
notice of sale of, by fence viewers.....	127
notice to owners of.....	123
of fence viewers' meeting	129
to town clerk.....	121

INDEX

	Section.
proceeds of sale of.....	128
surplus moneys on sale of.....	133
when lien on, may be foreclosed.....	126
examining witnesses, traveling fees for.....	169
supervisor, annual reports of, to board of supervisors.....	210
duplicate reports of.....	213
form of reports of.....	211
general duties of.....	80
publication of reports of.....	212
undertaking of.....	60
plus moneys on sale of strays.....	133
deeds, town.....	81
of office of collector.....	221
of constables.....	231
of persons in office.....	232
of town clerk.....	221
of town officers.....	13, 220
of annual town meeting.....	10
town, a municipal corporation.....	2
election districts in.....	223
fiscal year in.....	222
how to make contracts.....	182
how to sue and be sued.....	182
villages and cities deemed.....	134
when burial grounds to belong to.....	195
auditors, compensation of.....	176
election of.....	172
how vacancies in board of, filled.....	176
powers conferred upon.....	174
town board to appoint temporary board of.....	175
town meeting may vote to discontinue.....	177
on board, appeal from, to board of supervisors.....	163
constitution of.....	160
first meeting of.....	161
meeting of.....	222
of two or more towns, meetings of.....	5
regular meetings of.....	160
second meeting of.....	162
to appoint temporary board of town officers.....	175
cancellation of.....	214
boundaries, disposition of town property upon alteration.....	3

Town charges, what deemed	8
when fees of officers in criminal proceedings are	
Town clerk, general duties of	
notice to, of strays.	
term of office of	
Town fire companies	
Town house.....	
control of	
erection of	
Town lands, actions for trespass on	
Town law, construction of	
when to take effect.....	
Town meeting, annual, changing place of.....	
annual, place of.....	
powers of	
time of	
balloting at	
business of.....	
canvass at, in case no justice present.....	
of votes at.....	35
challenges at	
clerk of.....	
duration of.....	
inspectors of election at	
may vote to discontinue town auditors.....	
minutes of proceedings of.....	
notices of	
notice of propositions to be determined by ballot at	
presiding officers of	
proclamation of opening and closing polls at	
special	
transaction of business at, not requiring a ballot.....	
votes at, to expend over \$500	
Town officers, compensation of	
county clerk to report omissions of.....	
election of	1
form of undertaking of.....	
liability on undertaking of.. ..	
oath of office of.....	
official oath of.....	
pay of.....	
resignations of.....	6

INDEX.

	Section.
officers, term of office of.....	13, 220
to administer oaths	56
undertaking of	230
offices, eligibility to	50
filling of vacancies in.....	65
vacancies in.....	229
property, disposition of, upon alteration of town boundaries,	3
surveys.....	81
saction of business at town meetings, not requiring a ballot,	32
ling fees in subpoenaing witnesses.....	169
ass, actions for, on town lands.....	183
ees of burial ground, electors may choose	193
o lay out burial ground	194
rtaking of claimant.....	141
f collector.....	52
filing and lien of.....	53
f commissioner of excise	61
of highways	63
f constable	54
f justice	58
f overseer of poor	62
f supervisor	60
f town officers, form of.....	66
f town officers.....	230
liability on.....	66
ancies, ballot for.....	20
n board of town auditors, how filled.....	176
n town offices.....	229
filling of.....	65
ges and cities deemed towns.....	134
at town meetings to expend over \$500.....	33
anvass of, at town meetings	39
deemed town charges	180
a lands may lie open.....	101
a lien on strays may be foreclosed.....	126
a more than four justices may hold office.....	22
a owner of wrecked property may sue.....	142
s, fires in	82
wked property, delivery of, to claimant.....	140
etention of.....	145
owers and duties of sheriff, coroners and wreck-masters,	
as to	138

INDEX.

- Wrecked property, publication of notice of.....
 publication of notices of sales of
 recovery of.....
 sale and disposition of.....
 sale of.....
 when owner of, may sue.....
Wreck-masters, appointment of.....
 duties of.....
 powers and duties of.....

The Public Officers Law.

LAWS OF 1892, CHAP. 681.

AN ACT in relation to public officers, constituting chapter seven of the general laws.

APPROVED by the Governor May 18, 1892. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

CHAPTER VII OF THE GENERAL LAWS.

THE PUBLIC OFFICERS LAW.

- ARTICLE I. Appointment and qualification of public officers (§§ 1-14).
II. Creation and filling of vacancies (§§ 20-31).
III. Powers and duties of public officers (§§ 40-44).

ARTICLE I.

APPOINTMENT AND QUALIFICATION OF PUBLIC OFFICERS.

- SECTION 1. Short title and extent of application.
2. Definition.
3. Qualifications for holding office.
4. Commencement of term of office.
5. Holding over after expiration of term.
6. Mode of choosing state officers, if not otherwise provided.
7. Appointment by the governor and senate.
8. Commissions of officers.
9. Deputies, their appointment, number and duties.
10. Official oaths.
11. Official undertakings.
12. Force and effect of official undertakings.
13. Notice of neglect to file oath or undertaking.
14. Effect of revision on terms of office.
15. Validation of official acts performed before filing official oath of undertaking.

SECTION 1. Short title and extent of application.—This chapter shall be known as the public officers law, and applies to civil officers only.

§ 2. Definitions.—The term state officer includes every officer for whom all the electors of the state are entitled to vote, members of the legislature, justices of the supreme court, regents of the university, and every officer, appointed by one or more state officers, or by the legislature, and authorized to exercise his official functions throughout the entire state, or without limitation to any political subdivision of the state, except United States senators, members of congress, and

electors for president and vice-president of the United States. The term local officer includes every other officer who is elected by the electors of a portion only of the state, every officer of a political subdivision or municipal corporation of the state, and every officer limited in the execution of his official functions to a portion only of the state. The office of a state officer is a state office. The office of a local officer is a local office.

§ 3. Qualifications for holding office.—No person shall be capable of holding a civil office who shall not, at the time he shall be chosen thereto, be of full age, a citizen of the United States, a resident of the state, and if it be a local office, a resident of the political subdivision or municipal corporation of the state for which he shall be chosen, or within which the electors electing him reside, or within which his official functions are required to be exercised.

§ 4. Commencement of term of office.—The term of office of an elective officer, unless elected to fill a vacancy then existing, shall commence on the first day of January next after his election, if the commencement thereof be not otherwise fixed by law.

§ 5. Holding over after expiration of term.—Every officer except a judicial officer, a notary public, a commissioner of deeds and an officer whose term is fixed by the constitution, having duly entered on the duties of his office, shall, unless the office shall terminate or be abolished, hold over and continue to discharge the duties of his office, after the expiration of the term for which he shall have been chosen, until his successor shall be chosen and qualified; but after the expiration of such term, the office shall be deemed vacant for the purpose of choosing his successor. An officer so holding over for one or more entire terms, shall, for the purpose of choosing his successor, be regarded as having been newly chosen for such terms. An appointment for a term shortened by reason of a predecessor holding over, shall be for the residue of the term only.

§ 6. Mode of choosing state officers if not otherwise provided.—If the law shall not otherwise provide the mode of choosing a state officer, he shall be appointed by the governor by and with the advice and consent of the senate.

§ 7. Appointment by the governor and senate.—An appointment to an office by the governor by and with the advice and consent of the senate, shall be made by communicating to the senate, while in session, a written nomination of a person for the office, designating the residence of the nominee, and if nominated to be an officer of a political subdivision of the state, designating also such subdivision, and if nominating two or more persons to the same office for different terms, designating the term for which each is nominated. If such

ination be of a successor to a predecessor in the same office, it may be made and acted upon by the senate after the expiration of the term of occurrence of a vacancy in the office of such predecessor, or at any time during the legislative session of the calendar year in which the term of office of such predecessor shall expire or in which the office becomes vacant. If the appointment be made before the expiration of the term of such predecessor, the term of office of the appointee shall commence upon the expiration of the term of such predecessor, or immediately if a vacancy already exist. If the senate shall reject such nomination, the clerk of the senate shall forthwith communicate, by writing, signed by the president and clerk of the senate, to the governor the fact of such rejection. If the senate shall confirm such nomination the appointment shall be deemed complete, and thereupon certificates of the confirmation shall be made and signed by the president and clerk of the senate, who shall cause one to be delivered to the governor and the other to the secretary of state, who shall record the same in his office in a book kept for that purpose.

Adopted by chap. 318 of 1893.

8. Commissions of officers.—The commission of every officer appointed by the governor, or by the governor by and with the consent of the senate, shall be signed by the governor and attested under the seal of this state, by the secretary of state who shall make and deliver in his office a copy of such commission, and deliver the original of the officer appointed, by a messenger, if the governor shall so direct, or otherwise, by mail or as the secretary of state shall deem proper. Commissions of notaries public may be signed by the governor's private secretary, and shall be sent to the county clerk of the county in which such notaries public respectively reside. Every other appointment of an officer, made by one or more state officers, shall be in writing, and signed by the officer or officers, or by a majority of the members, or by the presiding officer of the board or body, making the appointment. Every such written appointment shall be deemed the commission of the officer appointed, and, if of a state officer, a duplicate or a certified copy thereof shall be recorded in the office of the secretary of state; if of a local officer, it shall be sent to the clerk of the county in which the officer appointed shall then reside, who shall file the same in his office, and notify the officer appointed of his appointment.

9. Deputies, their appointment, number and duties.—Every deputy, assistant, or other subordinate officer, whose appointment or election is not otherwise provided for, shall be appointed by the principal officer, board or other body, and the number thereof, if

not otherwise prescribed by law, shall be limited in the discretion of the appointing power. If there is but one deputy, he shall, unless otherwise prescribed by law, possess the powers and perform the duties of his principal during the absence or inability to act of his principal or during a vacancy in his principal's office. If there be two or more deputies of the same officer, such officer may designate, in writing, the order in which the deputies shall act, in case of his absence from the office or his inability to act, or in case of a vacancy in the office; and if he shall fail to make such designation, the deputy longest in office present, shall so act. If two or more deputies present shall be held the office for the same period, the senior deputy in age shall so act. Such written designation by a state officer shall be filed in the office of the secretary of state; and by any other officer, in the office of the clerk of the county in which the principal has his office. A vacancy in a public office shall be caused by the death of the incumbent, the deputies shall, unless otherwise provided by law, continue to hold office until the vacancy shall have been filled in accordance with law.

§ 10. Official oaths.—Every officer shall take and file the oath of office required by law before he shall be entitled to enter upon the discharge of any of his official duties. An oath of office may be administered by any officer authorized to take, within the state, the acknowledgment of the execution of a deed of real property, or by an officer in whose office the oath is required to be filed, or may be administered to any member of a body of officers, by a presiding officer or clerk thereof, who shall have taken an oath of office. The oath of office of a notary public or commissioner of deeds shall be filed in the office of the clerk of the county in which he shall reside. The oath of office of every state officer shall be filed in the office of the secretary of state; and of every officer of a municipal corporation, with a clerk thereof; and of every other officer, in the office of the clerk of the county in which he shall reside, if no place be otherwise provided by law for the filing thereof.

Am'd by chap. 318 of 1898.

§ 11. Official undertakings.—Every official undertaking, required by or in pursuance of law to be hereafter executed or performed by any officer, shall be to the effect that he will faithfully discharge the duties of his office and promptly account for and pay over all moneys or property received by him as such officer, in accordance with law, or in default thereof, that the parties executing such undertaking will pay all damages, costs and expenses resulting from such default, not exceeding a sum, if any, specified in such undertaking. The undertaking of a state officer shall be approved by the comptroller.

both as to its form and as to the sufficiency of the sureties, and be filed in the comptroller's office. The undertaking of a municipal officer shall, if not otherwise provided by law, be approved as to its form and the sufficiency of the sureties by the chief executive officer or by the governing body of the municipality and be filed with the clerk thereof. The approval by such governing body, may be by resolution, a certified copy of which shall be attached to the undertaking. The sum specified in an official undertaking shall be the sum for which such undertaking shall be required by or in pursuance of law to be given. If no sum, or a different sum from that required by or in pursuance of law, be specified in the undertaking, it shall be deemed to be an undertaking for the amount so required. If no sum be required by or in pursuance of law to be so specified, and a sum be specified in the undertaking, the sum so specified shall not limit the liability of the sureties therein. Every official undertaking shall be executed and duly acknowledged by at least two sureties, each of whom shall add thereto his affidavit that he is a freeholder or householder within the state, stating his occupation and residence and the street number of his residence and place of business if in a city, and a sum which he is worth over and above his just debts and liabilities and property exempt from execution. The aggregate of the sums so stated in such affidavits must be at least double the amount specified in the undertaking. The failure to execute and* official undertaking in the form or by the number of sureties required by or in pursuance of law, or of a surety thereto to make an affidavit required by or in pursuance of law, or in the form so required, or the omission from such an undertaking of the approval required by or in pursuance of law, shall not affect the liability of the sureties therein.

§ 12. **Force and effect of official undertaking.**—An officer of whom an official undertaking is required, shall not receive any money or property as such officer, or do any act affecting the disposition of any money or property which such officer is entitled to receive or have the custody of, before he shall have filed such undertaking; and any person having the custody or control of any such money or property shall not deliver the same to any officer of whom an undertaking is required until such undertaking shall have been given. If a public officer required to give an official undertaking, enters upon the discharge of any of his official duties before giving such undertaking, the sureties upon his undertaking subsequently given for or during his official term shall be liable for all his acts and defaults done or suffered and for all moneys and property received during such term

* So in the original.

prior to the execution of such undertaking, or if a new undertaking is given from the time notice to give such new undertaking is served upon him. If an official undertaking shall be obligatory and in force so long as the officer shall continue to act as such and until his successor shall be appointed and duly qualified and until the conditions of the undertaking shall have been fully performed. When an official undertaking is renewed pursuant to law the sureties upon the former undertaking shall not be liable for any official act done or moneys received after the due execution, approval and filing of the new undertaking.

§ 13. **Notice of neglect to file oath or undertaking.**—The officer or body making the appointment or certificate of election of a public officer shall, if the officer is required to give an official undertaking to be filed in an office other than that in which the written appointment or certificate of election is to be filed, forthwith give written notice of such appointment or election to the officer in whose office the undertaking is to be filed. If any officer shall neglect, within the time required by law, to take and file an official oath, or execute and file an official undertaking, the officer, with whom or in whose office such oath or undertaking is required to be filed, shall forthwith give notice of such neglect, if of an appointive officer, to the authority appointing such officer; if of an elective officer, to the board or body authorized to fill a vacancy in such office, if any, or if none exists, to the board or body authorized to call or give notice of a special election to fill such vacancy. The notice of failure of a justice of the peace to file his official undertaking shall be given to the town clerk of the town for which the justice was elected.

§ 14. **Effect of revision on terms of office.**—If an office be continued by general laws constituting the revision of which this chapter is a part, the person now lawfully holding such office shall, subject to the provisions of such general laws, continue therein for the term for which he was chosen, or if holding after the expiration of his term, until his successor shall be chosen and shall be qualified.

§ 15. **Validation of official acts performed before filing official oath or undertaking.**—If a public officer, duly chosen, has heretofore entered, or shall hereafter enter on the performance of the duties of his office, without taking or filing an official oath, or executing or filing an official undertaking, as required by constitution, or by any general or special law, his acts as such officer, so performed, shall be as valid and of as full force and effect as if such oath had been taken and filed, and as if such undertaking had been duly executed and filed, notwithstanding the provisions of any general or special law declaring any such act, office, or authorizing it to be declared vacant, or to be filled as in case of vacancy, or imposing any other forfeiture or penalty for omission to take or file any such oath, or to execute or file any such undertaking; but this section shall not otherwise affect any provision of any general or special law, declaring any such act, office, or authorizing it to be declared vacant, or to be filled as in case of vacancy, or imposing any other forfeiture or penalty, by reason of the failure to take or file any such oath or to execute or file any such undertaking; and this section shall not relieve any such officer from the criminal liability imposed by section 11, two of the Penal Code, for entering on the discharge of his official duties without taking or filing such oath or executing or filing such undertaking.

Added by chap. 403 of 1894. Took effect May 3, 1894.

ARTICLE II.

CREATION AND FILLING OF VACANCIES.

SECTION 20. Creation of vacancies.

21. Resignations.
22. Removals by senate.
23. Removals by governor.
24. Evidence in proceedings for removal by governor.
25. Removals from office.
26. Notice of existence of vacancy.
27. Terms of officers chosen to fill vacancies.

PUBLIC OFFICERS LAW.

28. Filling vacancies in office of officer appointed by governor and senate.

29. Vacancy occurring in office of legislative appointee, during legislative recess.

30. Vacancies filled by legislature.

31. Filling other vacancies.

20. Creation of vacancies.—Every office shall be vacant upon happening of either of the following events before the expiration of the term thereof :

The death of the incumbent ;

His resignation ;

His removal from office ;

His ceasing to be an inhabitant of the state, or if he be a local officer, of the political subdivision, or municipal corporation of which he is required to be a resident when chosen ;

His conviction of a felony, or a crime involving a violation of the oath of office ;

The judgment of a court, declaring void his election or appointment, or that his office is forfeited or vacant ;

His refusal or neglect to fill his official oath or undertaking, if required, before or within fifteen days after the commencement of the term of office for which he is chosen, if an elective office, or if an appointive office, within fifteen days after notice of his appointment, or within fifteen days after the commencement of such term ; or if he fails to renew his undertaking within the time required by law, or if no time is so specified, within fifteen days after notice to him in pursuance of law, that such renewal undertaking is required. When a new office or an additional incumbent of an existing office, shall be created, the existing office shall for the purposes of an appointment or election, be deemed to continue from the date of its creation, until it shall be filled by election or appointment.

21. Resignations.—Public officers may resign their offices as follows :

The governor, lieutenant-governor, secretary of state, comptroller, attorney-general, state engineer and surveyor, to the legislature ;

All officers appointed by the governor alone, or by him with the consent of the senate, to the governor ;

Senators and members of assembly, to the presiding officers of their respective houses ;

Sheriffs, coroners, county clerks, district attorneys and registers of deeds, to the governor ;

Every other county officer, to the county clerk ;

Every town officer, to the town clerk ;

7. The officer of any other municipal corporation, to the clerk of the corporation ;

8. Every other appointive officer, where not otherwise provided by law, to the body, board or officer that appointed him, and every other elective officer, where not otherwise provided by law, to the secretary of state.

Every resignation shall be in writing addressed to the officer or body to whom it is made. If addressed to an officer, it shall take effect upon delivery to him at his place of business or when it shall be filed in his office.

If addressed to the legislature or to the presiding officer of either house thereof, it shall be delivered to and filed with the secretary of state, and shall take effect when so delivered, and he shall forthwith communicate the fact of such resignation to the legislature or to such house, if in session, or if not, at its first meeting thereafter.

If addressed to any other body it shall be delivered to the presiding officer or clerk of such body, if there be one, and if not, to any member thereof, and shall take effect upon such delivery, and shall be filed with the clerk, or if there be no clerk, with the other records of such body. A delivery at the office or place of residence or business of the person to whom any such resignation may be delivered shall be a sufficient delivery thereof.

§ 22. Removals by senate.—The governor before making a recommendation to the senate for the removal of any officer may, in his discretion take proofs, for the purpose of determining whether such recommendation shall be made.

The secretary of state, comptroller, treasurer, attorney-general, or the state engineer and surveyor, may be removed by the senate, on the recommendation of the governor, for misconduct or malversation in office, if two-thirds of all the members elected to the senate shall concur therein. No such removal shall be made unless the person who is sought to be removed, shall have been served with a copy of the charges against him and have an opportunity of being heard. On the question of removal, the yeas and nays shall be entered on the journal. The governor may convene the senate in extra session for the investigation of such charges. The senate shall have power to make such rules as it may see fit for the practice before it. At the time appointed for the investigation, the senate shall proceed to hear and try the charges against such officer, and may take proofs in relation thereto.

The governor may direct the attorney-general, or may appoint any suitable person to conduct the trial of such charges before the senate.

An officer appointed by the governor by and with the advice and consent of the senate, may be removed by the senate upon the recommendation of the governor.

PUBLIC OFFICERS LAW.

If the senate shall reject a recommendation of removal the clerk of the senate shall, by a writing signed by him and by the president and clerk of the senate, communicate the fact of such rejection to the governor. If the senate shall concur in such a recommendation the removal shall take effect upon the passage of the resolution of concurrence, and duplicate copies of such resolution, certified by the clerk and president of the senate, shall be executed, and delivered by the clerk to the secretary of state.

§ 23. Removals by governor.—An officer appointed by the governor for a full term or to fill a vacancy, any county superintendent of the poor, any register of a county, or any notary public, may be removed by the governor within the term for which such officer shall have been chosen, after giving to such officer a copy of the charges against him and an opportunity to be heard in his defense.

§ 24. Evidence in proceedings for removal by governor.—The governor may take the evidence in any proceeding for the removal by him of a public officer or may direct that the evidence be taken before a justice of the supreme court of the district, or the county judge of the county, in which the officer proceeded against shall reside, or before a commissioner appointed by the governor for that purpose by an appointment in writing, filed in the office of the secretary of state. The governor may direct such judge or commissioner to report to him the evidence taken in such proceeding, or the evidence and the findings by the judge or commissioner of the material facts deemed by such judge or commissioner to be established. The commissioner or judge directed to take such evidence may require witnesses to attend before him, and shall issue subpoenas for such witnesses as may be requested by the officer proceeded against.

The governor may direct the attorney-general, or the district attorney of the county in which the officer proceeded against shall reside to conduct the examination into the truth of the charges alleged as ground for such removal. If the examination shall be before a commissioner or judge, it shall be held at such place in the county in which the officer proceeded against shall reside as the commissioner or judge shall appoint, and at least eight days after written notice of the time and place of such examination shall have been given to the officer proceeded against.

All sheriffs, coroners, constables and marshals to whom process shall be directed and delivered under this section shall execute the same without necessary* delay.

§ 25. Removals from office.—Every removal of an officer by one or more state officers, shall be in written duplicate orders, signed by

* So in the original.

the officer, or by all or a majority of the officers, making the removal, or if made by a body or board of state officers may be evidenced by duplicate certified copies of the resolution or order of removal, signed either by all or by a majority of the officers making the removal, or by the president and clerk of such body or board. Both such duplicate orders or certified copies shall be delivered to the secretary of state, who shall record in his office one of such duplicates, and shall, if the officer removed is a state officer, deliver the other to such officer by messenger, if required by the governor, and otherwise by mail or as the secretary of state shall deem advisable, and shall, if directed by the governor, cause a copy thereof to be published in the state papers. If the officer removed be a local officer, he shall send the other of such duplicates to the county clerk of the county in which the officer removed shall have resided at the time he was chosen to the office, and such clerk shall file the same in his office, and forthwith notify the officer removed of his removal.

§ 25a. Any town or village officer, except a justice of the peace, may be removed from office by the supreme court for any misconduct, maladministration, malfeasance or malversation in office. An application for such removal may be made by any citizen resident of such town or village and shall be made to the appellate division of the supreme court held within the judicial department embracing such town or village. Such application shall be made upon notice to such town officer of not less than eight days, and a copy of the charges upon which the application will be made must be served with such notice.

Add'd by ch. 573 of 1896. In effect May 12, 1896.

§ 26. Notice of existence of vacancy.— When a judgment shall be rendered by any court convicting an officer of a felony, or of a crime involving a violation of his oath of office, or declaring the election or appointment of any officer to be void, or that the office of any officer has been forfeited or become vacant, the clerk of such court shall give notice thereof to the governor, stating the cause of such conviction or judgment.

Whenever a public officer shall die before the expiration of his term of office, or shall cease to be a resident of the political subdivision of the state or a municipal corporation in which he is required to be a resident as a condition of continuing in the office, the county clerk of the county in which such officer shall have resided immediately prior to such death or removal, shall immediately give notice of such death or removal to the governor. If the governor is not authorized to fill any vacancy of which he shall have notice, he shall forthwith give notice of the existence of such vacancy to the officer or officers, or to the body or board of officers authorized to fill the vacancy, or if such vacancy may be filled by an election, to the officers authorized to give notice of such election.

§ 27. Terms of officers chosen to fill vacancies.— If an appointment of a person to fill a vacancy in an appointive office be made by the officer, or by the officers, body or board of officers, authorized to

make appointment to the office for the full term, the person so appointed to such vacancy shall hold office for the balance of the unexpired term. The term of office of an officer appointed to fill a vacancy in an elective office, shall be until the commencement of the political year next succeeding the first annual election after the happening of the vacancy, if the office be made elective by the constitution, or at which the vacancy can be filled by election, if the office be otherwise made elective.

§ 28. Filling vacancies in office of officer appointed by governor and senate.— A vacancy which shall occur during the session of the senate, in the office of an officer appointed by the governor by and with the advice and consent of the senate, shall be filled in the same manner as an original appointment. Such a vacancy occurring or existing while the senate is not in session, shall be filled by the governor for a term which shall expire at the end of twenty days from the commencement of the next meeting of the senate.

Am'd by chap. 818 of 1898.

§ 29. Vacancy occurring in office of legislative appointee, during legislative recess.— When a vacancy shall occur or exist, otherwise than by expiration of term, during the recess of the legislature, in the office of any officer appointed by the legislature, the governor shall appoint a person to fill the vacancy for a term which shall expire at the end of twenty days from the commencement of the next meeting of the legislature.

§ 30. Vacancies filled by legislature.— When a vacancy occurs or exists, other than by removal, in the office of the secretary of state, comptroller, treasurer, attorney-general, or state engineer and surveyor, or a resignation of any such office to take effect at any future day shall have been made while the legislature is in session, the two houses thereof, by joint ballot, shall appoint a person to fill such actual or prospective vacancy.

§ 31. Filling other vacancies.— If a vacancy shall occur, otherwise than by expiration of term, with no provision of law for filling the same, if the office be elective, the governor shall appoint a person to execute the duties thereof until the vacancy shall be filled by an election. But if the term of such officer shall expire with the calendar year in which the appointment shall be made, or if the office be appointive, the appointee shall hold for the residue of the term.

ARTICLE III.

POWERS AND DUTIES OF PUBLIC OFFICERS.

SECTION 40. Official seals of court of appeals and state officers.

41. Business in public offices on public holidays.
42. Payment of expenses of public officers.
43. Laws repealed.
44. When to take effect.

SECTION 40. Official seals of court of appeals and state officers.—The seal of the court of appeals and of the second division of the court of appeals and of each state officer authorized to use an official seal, shall be of metal with the device of the arms of the state surrounded with the inscription, State of New York, and the name of the court or official designation of the officer. The seal of each of such courts, the privy seal of the governor, and the seal of the secretary of state, comptroller, treasurer, state engineer and surveyor, the adjutant-general, and of each of the other state officers at the capital, required to have an official seal shall be two and one-quarter inches in diameter, and of each other state officer authorized to have an official seal, shall be one and three-quarters inches in diameter. Such seal heretofore provided by the secretary of state shall continue to be used by such courts and officers, and when defective from wear or otherwise, shall be delivered to the secretary of state who shall cause them to be repaired and returned, or to be defaced with a suitable mark, or deposited with the ancient seals in the state library, and new seals to be provided for use instead.

§ 41. Business in public offices on public holidays.—Holidays and half holidays shall be considered as Sundays for all purposes relating to the transaction of business in the public offices of the state, and of each county.

§ 42. Payment of expenses of public officers.—Every public officer who is not allowed any compensation for his services shall be paid his actual expenses necessarily incurred in the discharge of his official duties.

§ 43. Laws repealed.—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

§ 44. When to take effect.—This chapter shall take effect on October 1, 1892.

SCHEDULE OF LAWS REPEALED.

Revised Statutes.....Part I, chapter 5.....All.

LAWS OF	Chapter	Sections.
1830.....	58.....	All.
1837.....	436.....	All.
1848.....	4.....	All.
1849.....	28.....	All.
1849.....	46.....	All.
1850.....	126.....	All.
1866.....	629.....	All.

PUBLIC OFFICERS LAW

LAWS OF	Chapter.	Sections.
1867.....	335.....	All.
1873.....	85.....	All.
1875.....	397.....	All.
1876.....	138.....	All.
1880.....	4.....	All.
1882.....	216.....	All.
1883.....	285.....	All.
1883.....	522.....	All.
1887.....	372.....	All.
1890.....	367.....	All.

PROVISIONS OF THE PENAL CODE APPLICABLE.

§ 42. **Acting in a public office without having qualified.**—A person who executes any of the functions of a public office without having taken and duly filed the required oath of office, or without having executed and duly filed the required security, is guilty of a misdemeanor, as prescribed by law.

Am'd by chap. 692 of 1893.

§ 43. **Acts of officer de facto not affected.**—The last section must not be construed to affect the validity of acts done by a person exercising the functions of a public office in fact, where other persons than himself are interested in maintaining the validity of such acts.

§ 44. **Giving or offering bribes.**—A person who gives or offers a bribe to any executive officer of this state with intent to influence him in respect to any act, decision, vote, opinion, or other proceeding as such officer, is punishable by imprisonment in a state prison not exceeding ten years, or by fine not exceeding five thousand dollars, or by both.

§ 45. **Asking or receiving bribes.**—An executive officer, or person elected or appointed to an executive office, who asks, receives or agrees to receive any bribe, upon an agreement or understanding that his vote, opinion or action upon any matter then pending or which may by law be brought before him in his official capacity, shall be influenced thereby, is punishable by imprisonment in a state prison not exceeding ten years, or by a fine not exceeding five thousand dollars, or by both; and in addition thereto forfeits his office and is forever disqualified from holding any public office under this state.

§ 46. **Attempting to prevent officers from performing duty.**—A person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon such officer by law, is guilty of a misdemeanor.

§ 47. **Resisting officers.**—A person who knowingly resists, by the use of force or violence, any executive officer, in the performance of his duty, is guilty of a misdemeanor.

§ 48. **Taking unlawful fees.**—A public officer or a deputy, clerk, assistant or other subordinate of a public officer, or any person appointed or employed by or in the office of a public officer, who shall, in any manner, act for or in behalf of any such officer, who asks or receives, or consents or agrees to receive any emolument, gratuity or reward, or any promise of emolument, gratuity or reward, or any money, property or thing of value or of personal advantage, except such as may be authorized by law for doing or omitting to do any official act, or for performing or omitting to perform, or for having

formed or omitted to perform any act whatsoever directly or indirectly relating to any matter in respect to which any duty or discretion is by or in pursuance of law imposed upon or vested in him, may be exercised by him by virtue of his office, or appointment or employment, or his actual relation to the matter, shall be guilty of a crime, punishable by imprisonment for not more than ten years or by a fine of not more than four thousand dollars, or both.

19. Taking reward for omitting or delaying official acts.—An executive officer who asks or receives any emolument, gratuity or reward, or any promise of any emolument, gratuity or reward, for omitting or deferring the performance of any official duty, is guilty of a misdemeanor.

20. Taking fees for services not rendered.—An executive officer who asks or receives any fee or compensation for any official service which has not been actually rendered except in cases of charges for prospective costs, or of fees demandable in advance in the cases provided by law, is guilty of a misdemeanor.

21. Taking unlawful reward for services in extradition of fugitives.—An officer of this state who asks or receives any fee or compensation of any kind for any service rendered or expense incurred in procuring from the governor of this state a demand upon the executive authority of a state or territory of the United States, or of a foreign government, for the surrender of a fugitive from justice; or for any service rendered or expense incurred in procuring the surrender of such fugitive, or for conveying him to this state, or for detaining him therein, except upon an employment by the governor of this state, is guilty of a misdemeanor.

22. Corrupt bargain for appointments, etc.—A person who solicits or offers to give any gratuity or reward, in consideration that himself or any other person shall be appointed to a public office, or to a clerkship, deputation, or other subordinate positions, in such an office, or shall be permitted to exercise, perform or discharge any previous duties, or to receive any emoluments of such an office, is guilty of a misdemeanor.

23. Corrupt bargain for appointments, etc.—A person who solicits or receives, or agrees to receive, any gratuity or reward, or any promise thereof, for appointing another person, or procuring for another person any appointment to a public office or to a clerkship, deputation, or other subordinate position in such an office, is guilty of a misdemeanor. If the person so offending is a public officer, a conviction also forfeits his office.

24. Selling right to official powers.—A public officer who, for any reward, consideration or gratuity, paid, or agreed to be paid,

directly or indirectly, grants to another the rights or authority to charge any functions of his office, or permits another to make appointments or perform any of its duties, is guilty of a misdemeanor and a conviction for the same forfeits his office and disqualifies forever from holding any office whatever under this state.

§ 55. **Such appointment avoided by conviction.**—A grant of appointment or deputation, made contrary to the provisions of either of the last two sections is avoided and annulled by a conviction for violation of either of those sections, in respect to such grant, appointment or deputation; but any official act done before conviction, is not affected by the conviction.

§ 56. **Intrusion into public office.**—A person who willfully intrudes himself into a public office, to which he has not been elected or appointed, or who, having been an executive or administrative officer, willfully exercises any of the functions of his office after his right so to do has ceased, is guilty of a misdemeanor.

§ 57. **Offender refusing to surrender to successor.**—A person who, having been an executive or administrative officer, willfully refuses to surrender the official seal, or any books or papers pertaining to his office, upon the demand of his lawful successor, is guilty of a misdemeanor.

§ 58. **Administrative officers.**—The various provisions of this chapter which relate to executive officers apply to administrative officers, in the same manner as if administrative and executive officers were both mentioned.

§ 15. **Punishment of misdemeanor where not otherwise prescribed.**—A person convicted of a crime declared to be a misdemeanor, for which no other punishment is specially prescribed in this code, or by any other statutory provision in force at the time of the conviction and sentence, is punishable by imprisonment in the penitentiary or county jail, for not more than one year, or by a fine of not more than five hundred dollars, or by both.

§ 117a. **Neglect of county officer to make report.**—A county officer or an officer whose salary is paid by the county, who neglects or refuses to make a report under oath to the board of supervisors of such county on any subjects or matters connected with the duties of his office, whenever required by resolution of such board, is guilty of a misdemeanor.

Added by chap. 692 of 1893.

§ 470. **Misappropriation, etc., and falsification of accounts by public officers.**—A public officer, or a deputy, or clerk of such officer, and any other person receiving money on behalf of, or for the account of the people of this state, or of any department of the

ment of this state, or of any bureau or fund created by law, and in which the people of this state are directly or indirectly interested, or on account of any city, county, village or town, who

Appropriates to his own use, or to the use of any person not entitled thereto, without authority of law, any money so received by him as such officer, clerk or deputy, or otherwise ; or

Knowingly keeps any false account, or makes any false entry or omission in any account of, or relating to, any money so received by him, or

Fraudulently alters, falsifies, conceals, destroys or obliterates any account ; or

Willfully omits or refuses to pay over to the people of this state their officer or agent authorized by law to receive the same, or to any city, village, county or town, or the proper officer or authority empowered to demand and receive the same, any money received by him as such officer, when it is his duty imposed by law to pay over, and account for, the same ;

is guilty of felony.

471. Other violations of law.—An officer or other person mentioned in the last section who willfully disobeys any provision of law regulating his official conduct, in cases other than those specified in the last section is guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars, or imprisonment not exceeding two years, or both.

478. Canal officer concealing frauds, etc.—A public officer or agent employed by the people of this state in relation to the canals belonging to this state, who knows, or has good reason to believe that fraud upon the revenues of the canals has been committed or attempted, and who omits to disclose the same, and enforce the penalties therefor, if within his power, is guilty of a misdemeanor.

485a. School district trustee not to draw draft on supervisor in certain cases.—A school district trustee who issues an order drawing a draft on supervisor or collector for any money, unless there is at the time sufficient money in the hands of such supervisor or collector belonging to the district to meet such order or draft, is guilty of a misdemeanor.

Added by chap. 692 of 1898.

INDEX TO PUBLIC OFFICERS LAW.

["C" stands for Penal Code.]

	Section.
in public office without having qualified, c. 43.	
of officer <i>de facto</i> , valid, c. 43.	
administrative officers, c. 58.	
operation of public officers law, extent of.....	1
appointment avoided by conviction, c. 55.	
by governor and senate	7
corrupt bargain for, c. 53.	
of deputies.....	9
giving bribes, c. 45.	
reward for omitting or delaying official acts, c. 49.	
attempting to prevent officer from performing duty, c. 46.	
in, corrupt, for appointment, etc., c. 53.	
asking, c. 45.	
offering, to public officers, c. 44.	
receiving, c. 45.	
to public officers, giving, c. 44.	
absence in public offices on public holidays.....	41
commencement of term of office.....	4
commissions of officers	8
conviction, appointment avoided by, c. 55.	
of appeals, official seals of.....	40
of vacancies.....	20
corrupt bargain for appointment, etc., c. 53.	
positions.....	2
positions, appointment of.....	9
duties of.....	9
number of.....	9
of deputies.....	9
of official undertakings	12
of revision on term of office	14
presence in proceedings for removals by governor.....	24
expiration of term, holding over after	5
of application of public officers law.....	1
addition cases, taking unlawful reward in, c. 51.	
taking, for services not rendered, c. 50.	
taking unlawful, c. 48.	

Filling other vacancies.....	
vacancies in office of officer appointed by governor and senate	
Force of official undertakings.....	
Giving bribes to public officers, c. 44.	
Governor and senate, appointment by	
filling vacancies in office of officer appointed by.....	
evidence in proceedings for removal by	
removals by	
Holding over after expiration of term.....	
Holidays, business in public offices on.....	
Intrusion into public office, c. 56.	
Laws repealed	
Legislative appointee, vacancy occurring in office of, during legis-	
lative recess.....	
recess, vacancy occurring in office of legislative appointee	
during.....	
Legislature, vacancies filled by.....	
Misdemeanors, punishment of, c. 15.	
Mode of choosing state officers, if not otherwise provided.....	
Neglect to file oath or undertaking, notice of.....	
Notice of existence of vacancy	
of neglect to file oath or undertaking.....	
Number of deputies....	
Oath, notice of neglect to file.....	
of office.....	
Offering bribes to public officer, c. 44.	
rewards for appointments, etc., c. 52.	
Office, commencement of term of	
creation of vacancies in	
effect of revision on terms of	
filling other vacancies in.....	
notice of existence of vacancy in.....	
holding over after expiration of term of.....	
oath of.....	
of legislative appointee, vacancy occurring in office of, du-	
ing legislative recess.....	
of officers appointed by governor and senate, filling vacan-	
cies in.. ..	
qualifications for holding.....	
removals from.....	
resignations of.....	
terms of officers chosen to fill vacancies in.....	

INDEX.

	Section.
ce, vacancies in, filled by legislature	30
cers, administrative, c. 58.	
attempting to prevent from performing duty, c. 46.	
commissions of	8
<i>de facto</i> , acts of, valid, c. 43.	
refusing to surrender to successor, c. 51.	
resisting, c. 47.	
term of, chosen to fill vacancy.....	27
undertakings of.....	11
cial acts, asking or receiving reward for omitting or delay-	
ing, c. 49.	
oaths.....	10
powers, selling right to, c. 54.	
seals of court of appeals.....	40
of state officers.....	40
undertaking.....	11
effect of.....	12
force of.....	12
ment of expenses of public officers.....	42
ishment of misdemeanors, c.15.	
lic office, acting in, without having qualified, c. 42.	
intrusion into, c. 56.	
lic officers, giving or offering bribes to, c. 44.	
lic officers law, extent of application of.....	1
when to take effect.....	44
lic officers, payment of expenses of.....	42
lic offices, business in, on public holidays.....	41
lifications for holding office.....	3
ceiving bribes, c. 45.	
reward for omitting or delaying public acts, c. 49.	
novals by governor.....	23
evidence in proceedings for.....	24
by senate.....	22
from office.....	25
ignations of office.....	21
isting officers, c. 47.	
ision, effect of, on term of office.....	14
ward, asking or receiving, for omitting or delaying official	
acts, c. 49.	
offering, for appointment, etc., c. 52.	
taking unlawful, in extradition cases, c. 51.	
ht to official powers, selling, c. 54.	

INDEX.

- Selling right to official powers, c. 54. .
- Senate and governor, appointment by.....
- filling vacancies in office of officer appointed by.....
- removals by.....
- Short title.....
- State officers, mode of choosing, if not otherwise provided.....
- official seals of.....
- Successor, officer refusing to surrender to, c. 57.
- Taking fees for services not rendered, c. 50.
- unlawful fees, c. 48.
- unlawful reward in extradition cases, c. 51.
- Term of office, commencement of.....
- effect of revision on.....
- holding over after expiration of.....
- officers chosen to fill vacancies.....
- Undertakings, notice of neglect to file.....
- of officers.....
- Vacancies, creation of.....
- in office filled by legislature.....
- filling other.....
- notice of existence of.....
- of officers appointed by governor and senate, filling.....
- terms of officers chosen to fill.....
- occurring in office of legislative appointee, during legislative recess.....

THE HIGHWAY LAW.

BEING CHAPTER 568 OF THE LAWS OF 1890, AS AMENDED BY CHAP.
212 OF THE LAWS OF 1891, AND BY CHAP. 686
OF THE LAWS OF 1892.

AN ACT in relation to highways, constituting chapter nineteen of
the general laws.

CHAPTER NINETEEN OF THE GENERAL LAWS

THE HIGHWAY LAW.

- ARTICLE I.—Highway officers, their general powers and duties. (§§ 1-24).
II.—Assessment for highway labor. (§§ 30-58).
III.—The duties of overseers of highways, and the performance of highway labor. (§§ 60-73).
IV.—Laying out, altering and discontinuing highway and laying out private roads. (§§ 80-123).
V.—Bridges. (§§ 130-145).
VI.—Miscellaneous provisions. (§§ 150-164).
VII.—The regulation of ferries. (§§ 170-174).
VIII.—Repealing and other clauses. (§§ 180-183).

ARTICLE I.

HIGHWAY OFFICERS, THEIR GENERAL POWERS AND DUTIES.

- SECTION 1. Short title.
2. Treasurer of highway commissioners.
3. Powers of one commissioner.
4. General powers of commissioners.
5. Mile-stones and guide-boards.
6. Road machines and implements.
7. Stone-crushers and materials.
8. Custody of stone-crushers.
9. Additional tax.
10. Extraordinary repairs of highways or bridges.
11. Auditing expense thereof.
12. Accounts, how made out.
13. Unsafe toll-bridge.
14. Water pipes in highways.
15. Actions for injuries to highways.
16. Liability of towns for defective highways.
17. Action by town against commissioners.
18. Audit of damages without action.

- SECTION 19.** Reports of commissioners.
20. General duties of overseers.
21. Opening obstructed highways.
22. Penalties against overseers.
23. Penalties, how collected.
24. Compensation of overseers.

SECTION 1. Short title.— This chapter shall be known as the highway law.

§ 2. Treasurer of highway commissioners.— When there is more than one commissioner of highways in any town, they shall designate one of their number to be treasurer. If they fail so to do, the commissioner longest in office shall be the treasurer; and all money collected for highway purposes, or belonging to the highway fund of the town, shall be paid to him. Before receiving such money, he shall execute to the town an undertaking, to be approved by the supervisor, to the effect that he will faithfully account and pay over to any officer or person entitled thereto, any money that may come into his hands as such treasurer.

§ 3. Powers of one commissioner.— When any town has but one commissioner of highways, the term, commissioners of highways, when used in this chapter, shall mean such one commissioner.

§ 4. General powers of commissioner.— The commissioners of highways in the several towns, shall have the care and superintendence of the highways and bridges therein, except as otherwise specially provided in relation to incorporated villages, cities and other localities; and they shall

1. Cause such highways and bridges to be kept in repair, and give the necessary directions therefor;

2. Cause such highways as shall have been laid out, but not sufficiently described, and such as shall have been used for twenty years, but not recorded, to be ascertained, described and entered of record in the town clerk's office;

3. From time to time, not oftener than once a year, divide the town into so many highway districts as they shall judge convenient, by writing, under their hands, to be filed with the town clerk, and by him to be entered in the town book, at least ten days before an annual town meeting;

4. Assign to each of the highway districts such of the inhabitants and corporations liable to work on highways, as they shall think proper, having regard to proximity of residence as much as may be;

5. Within one week after each annual town meeting, make and file

with the town clerk, a written appointment of a resident of each district, to be overseer of highways therein. The town clerk shall notify each overseer of his appointment, within ten days after the filing thereof; and the person so appointed and notified, shall thereupon become and be the overseer of highways within his district for one year, and until his successor shall be appointed. If any person so appointed overseer, shall refuse to serve, or his office shall become vacant, the commissioners shall in like manner appoint some other person to be overseer;

6. Require overseers of highways to warn all persons and corporations assessed to work on highways, to come and work thereon, with such teams and implements, and at such times as the said commissioners, or any of them shall direct;

7. Expend all moneys raised and collected from the town at large for highway purposes, upon the highways and bridges situated in, or upon the borders of the town, or highway districts assigned to the town in which such moneys were raised and collected, in such proportion as they may deem just and proper.

8. Have power to enter upon the lands of any person adjoining any of the rivers, streams or creeks of the state, drive spiles, throw up embankments, and perform such other labor as may be necessary upon the banks of such rivers, streams or creeks for the purpose of keeping them or any of them within their proper channels and preventing their encroachment upon any of the highways of the state, and to protect such highways and the property of the town from damages by reason of such rivers, streams or creeks washing away their embankments, or changing the location of the channels, and to agree with the owner of any such lands upon the amount of damages, if any, sustained by him in consequence of such entry upon his lands and the performance of the work herein authorized, and the amount of the damages so agreed upon shall be a town charge, and shall be audited and paid in the same manner as other town charges. If the commissioners are unable to agree with such owner upon the amount of damages thus sustained, the amount thereof shall be ascertained and determined and paid in the same manner as damages for the laying out and opening of highways are required by law to be ascertained, determined and paid, where the commissioners and land owner are unable to agree upon the amount thereof. [*This subdivision added by L. 1891, chap. 212.*]

§ 5. Mile-stones and guide-boards.—Commissioners of highways may cause mile-boards or stones to be erected upon the highways in their town as they think proper; they shall also cause guide-posts, with proper inscriptions and devices,

to be erected at the intersections of such highways therein, as they may deem necessary, which shall be kept in repair at the expense of the town, by the overseers of the highways of the districts in which they are respectively located. Upon the written application of five resident taxpayers of any town or twenty resident taxpayers of the county in which any such town is located to the commissioners of highways, requesting the erection of one or more guide-boards at the intersection of highways in such town, the commissioner of highways shall cause to be erected at the intersections mentioned in such application such guide-boards indicating the direction, distances and names of the towns, villages or cities to or through which such intersecting highways run. Such application shall designate the highway intersections at which such guide-boards are requested to be erected and may contain suggestions as to the inscriptions and devices to be placed upon such boards. The cost of the erection and maintenance of such boards shall be a town charge. If the commissioner of highways refuses or neglects for a period of sixty days after receiving within application to comply with the request contained in such application, he shall for such neglect or refusal forfeit to the town the sum of twenty-five dollars to be recovered by the supervisor in the name of the town, and the amount so recovered shall be set apart for the erection of such guide-boards.

Am'd by ch. 330 of 1895. Took effect April 17, 1895.

§ 6. Road machines and implements.—Commissioners of highways may, upon the request of one or more overseers of the highway districts of their town, contract for and purchase for such district or districts, upon credit or otherwise, a good and sufficient scraper and plow, or either of them, and if a majority of the taxpayers of one or more highway districts in any town, representing more than one-half of the taxable property in such district or in each of such districts, to be ascertained by the last preceding assessment-roll and certified to as such by the town clerk of the town, petition the commissioner or commissioners of highways of such town therefor, such commissioners may, together with the supervisor and overseer or overseers of such district or districts, contract for and purchase upon credit or otherwise, a road machine for the use of such district or districts, which implements shall be used, cared for and owned by such district or districts jointly. Such implements shall be paid for out of the highway tax of the district or districts for which they are purchased, and may be paid for in annual installments, not exceeding five. If purchased for more than one district the amount paid by each shall be in proportion to the amount of highway tax; a copy of the note or contract issued upon the purchase of such implements, shall be filed in the office of the town clerk of the town in which such town or road district is situated, and it shall be the duty of said town clerk to present a statement of the sum due thereon to the town board at each annual meeting thereafter for the audit of town charges, and the town board shall audit such sum and certify the same to the board of supervisors of the county. Not more than one-half of the highway tax of any district shall be applied in payment therefor in any one year. The portion of such tax so applied, shall be required to be paid in money and be assessed and levied upon the property of such district or districts, and collected in the same manner as other town charges are assessed, levied and collected, except that the amount thereof shall be put in a separate column upon the tax roll, and the board of supervisors of the county shall cause the sum certified by the town board, to be levied upon the taxable property of such highway district. Such commissioner of highways shall with the assistance of the overseers of highways, in any road district which is to be charged with the payment for such machine after the completion of the assessment-roll, and ten days before the meeting of the board of supervisors of the county, make and deliver to the supervisor of such town a list of the persons in such district or districts who are named in the last assessment-roll of machine. The commissioner or commissioners of highways may, also, with the approval of the town board, purchase and hold for the use of the town at large, one or more road machines, and pay for the same with money appropriated and set apart for highway purposes. It shall be the duty of the commissioner or commissioners of highways of each town to provide a suitable place for housing and storage of all tools, implements and machinery that are owned by the town or by the several highway districts, and cause these tools and implements and machinery to be stored therein when not in use.

Am'd by ch. 987 of 1896. In effect May 28, 1896.

§ 7. Stone crushers and materials.—The town board and commissioner or commissioners of highways of any town may, when authorized by a majority vote of the electors voting thereon, by ballot, at the annual or at a special town meeting, purchase a machine for crushing stone, to be used, under the direction of the commissioner or commissioners of highways of said town, for the improvement of the highways thereof, and the commissioners of highways of any such town may, in any year, when authorized by a majority vote of the electors voting thereon, by ballot, at the annual or at a special town meeting expend in said year a sum not

exceeding two thousand dollars, for the purpose of purchasing stone, and quarrying, breaking, crushing and placing the same on the highways, in such road district or districts as the town board may direct and defraying the expenses of operating such machine, and shall present the account and vouchers for said purchases and expenses to the town board for audit, and the amount audited, together with the cost of such stone-crushing machine, when not before included, shall be levied and collected as other town audits.

Am'd by ch. 411 of 1895. To take effect Sept. 1, 1895.

§ 8. **Custody of stone-crushers.**—Such machine, when purchased, shall be under the care and custody of the commissioners of highways of the town; and where there is an incorporated village constituting a separate highway district, in any town, they may, by an agreement with the trustees of the village, permit an equitable use of the machine to such separate village district.

§ 9. **Additional tax.**—Whenever the commissioners of highways of any town shall determine, that the sum of five hundred dollars will be insufficient to pay the expenses actually necessary for the improvement of highways and bridges, they may cause a vote to be taken by ballot at any town-meeting, to be duly called, authorizing such additional sum to be raised as they may deem necessary for such purpose, not exceeding one-third of one per centum upon the taxable property of the town, as shown by the last assessment-roll thereof.

§ 10. **Extraordinary repairs of highways or bridges.**—If any highway or bridge shall at any time be damaged or destroyed by the elements or otherwise, or become unsafe, the commissioner of highways of the town in which such highway or bridge may be situated, may, with the consent of the town board, cause the same to be immediately repaired or rebuilt, although the expenditure of money required may exceed the sum raised for such purposes as hereinbefore provided; and the commissioners of highways shall present the proper vouchers for the expense thereof to the town board, at their next annual meeting, and the same shall be audited by them and collected in the same manner as amounts voted at town meetings.

Am'd by chap. 606 of 1895. Took effect May 11, 1895.

§ 11. **Auditing expense thereof.**—The town board may be convened in special sessions by the supervisor, or in his absence, by the town clerk, upon the written request of any commissioners of highways, and the bills and expenses incurred in the erection or repairs of any such highways or bridges, may then be presented to, and audited by the town board; and the supervisor and town clerk shall issue a certificate, to be subscribed by them, setting forth the amount so audited and allowed, and in whose favor, and the nature of the work done and material furnished, and such certificate shall bear interest from its date, and the amount thereof, with interest, shall be levied and collected in the same manner as other town expenses.

§ 12. **Accounts, how made out.**—No account for services rendered, or material furnished according to the provisions of this chapter, shall be allowed by such board, unless the same shall be verified in the same manner as town accounts are required by law to be verified, nor unless the commissioners of highways shall certify

that the service has been actually performed, and the material was actually furnished, and that the same was so performed or furnished by the request of such commissioners; and the town board may require and take such other proof as they may deem proper, to establish any claim for such labor and material, and the value thereof.

§ 13. **Unsafe toll-bridge.**—Whenever complaint in writing, on oath, shall be made to the commissioners of highways of any town in which shall be, in whole or in part, any toll-bridge belonging to any person or corporation, representing that such toll-bridge has from any cause become, and is unsafe for the public use, such commissioners of highways shall forthwith make a careful and thorough examination of such toll-bridge, and if upon the examination thereof, they shall be of the opinion that the same has from any cause become dangerous or unsafe for public use, they shall thereupon give immediate notice to the owners of such toll-bridge, or to any agent of such owners, acting as such agent, in respect to such bridge, that they have on complaint made, carefully and thoroughly examined the bridge, and found it to be unsafe for the public use. Such owners shall thereupon immediately commence repairing the same, and cause such repairs to be made within one week from the day of such notice given, or such reasonable time thereafter as may be necessary to thoroughly repair the bridge, so as to make it in all respects, safe and convenient for public use; and for neglect to take prompt and effective measures so to repair the bridge, its owners shall forfeit twenty-five dollars; and shall not demand or receive any toll for using the bridge, until the same shall be fully repaired; and the commissioners of highways shall cause such repairs to be made, and the owners of the bridge shall be liable for the expense thereof, and for the services of the commissioners at two dollars per day; and upon the neglect or refusal to pay the same upon presentation of an account thereof, the commissioners of highways may recover the same by action, in the name of the town.

§ 14. **Water pipes in highways.**—The commissioners of highways may, upon written application of any resident of their town, grant written permission to lay and maintain water pipes and hydrants under ground, within the portion therein described, of any highway within the town, but not under the traveled part of the highway, except across the same, for the purpose of supplying premises with water, upon condition that such pipes and hydrants shall be so laid as not to interrupt or interfere with public travel upon the highway; and the applicant shall replace all earth removed,

and leave the highway in all respects in as good condition as before the laying of such pipes.

§ 15. **Actions for injuries to highways.**—The commissioners of highways may bring an action, in the name of the town, against any person or corporation, to sustain the rights of the public in and to any highway in the town, and to enforce the performance of any duty enjoined upon any person or corporation in relation thereto, and to recover any damages sustained or suffered or expenses incurred by such town, in consequence of any act or omission of any such person or corporation, in violation of any law or contract in relation to such highway.

§ 16. **Liability of towns for defective highways.**—Every town shall be liable for all damages to person or property, sustained by reason of any defect in its highways or bridges, existing because of the neglect of any commissioner of highways of such town. No action shall be maintained against any town to recover such damages, unless a verified statement of the cause of action shall have been presented to the supervisor of the town, within six months after the cause of action accrued; and no such action shall be commenced until fifteen days after the service of such statement.

§ 17. **Action by town against commissioners.**—If a judgment shall be recovered against a town for damages to person or property, sustained by reason of any defect in its highways, or bridges, existing because of the neglect of any commissioner of highways, such commissioner shall be liable to the town for the amount of the judgment, and interest thereon; but such judgment shall not be evidence of the negligence of the commissioners in the action against him.

§ 18. **Audit of damages without action.**—The town board of any town may audit as a town charge, in the same manner as other town charges are audited, any one claim not exceeding five hundred dollars, for damages to person or property, heretofore or hereafter sustained by reason of defective highway, or bridges in the town, if in their judgment it be for the interest of the town so to do; but no claim shall be so audited, unless it shall have been presented to the supervisor of the town, within six months after it accrued, nor if an action thereon shall be barred by the statute of limitations. The town board may also audit any unpaid judgment heretofore or hereafter recovered against a commissioner of highways for any such damages, if such town board shall be satisfied that he acted in good faith, and the defect causing such damage did not exist because of

the negligence or misconduct of the commissioner, against whom such judgment shall have been recovered.

§ 19. Reports of commissioners.—The commissioners of highways of each town shall make to the town board, at its first meeting in each year, a written report stating,

1. The labor assessed and performed,

2. The sum received by them for penalties, commutations and all other sources, and an itemized account of all moneys paid out during the year, with receipts in full by the respective parties to whom such money was paid;

3. The improvements which have been made on the highways and bridges, during the year immediately preceding such report, and the state of such highways and bridges; they shall also make at the second meeting of said board in each year, a statement of the improvements necessary to be made on such highways and bridges, and an estimate of the probable expense thereof, beyond what the labor to be assessed in that year will accomplish; a duplicate of which shall be delivered by the commissioners to the supervisor of the town, who shall present such duplicate statement to the board of supervisors, who shall cause the amount so estimated, not exceeding five hundred dollars in any one year, to be assessed, levied and collected, in such town, in the same manner as other town charges.

§ 20. General duties of overseers.—Each overseer of highways in every town, shall

1. Repair and keep in order the highways within his district.

2. Warn all persons and corporations assessed to work on the highways in his district, to come and work thereon.

3. Cause the noxious weeds within the bounds of the highway within his district, to be cut down or destroyed twice in each year, once before the first day of July, and again before the first day of September; and the requisite labor therefor shall be considered highway work.

4. Collect all fines and commutation money, and execute all lawful orders of the commissioners.

5. Cause all loose stones lying on the beaten track of every highway within his district, to be removed once in every month, from the first day of April until the first day of December.

6. Cause the monuments erected or to be erected, as the boundaries of highways, to be kept up and renewed, so that the extent of such highway boundaries may be publicly known.

§ 21. Opening obstructed highways.—Whenever the labor in

any district has been worked out, commuted for, or returned to the supervisor, and the highways are obstructed by snow, or otherwise, and notice has been given to the overseer, in writing, by any two or more inhabitants of the town, liable to payment of highway tax, requesting the removal of such obstruction, the overseer of highways in such district, shall immediately call upon all persons and corporations liable to highway tax therein, to assist in removing such obstructions; and such labor, so called for by the overseer, shall be assessed upon those liable to perform the same, in proportion to their original assessments. And all persons so called out and failing to appear at the place designated by the overseer, or to commute at a dollar a day, within twenty-four hours after due notice, shall be liable to a fine at the rate of one dollar and fifty cents a day, for each day's labor they may be required to perform, which fine shall be collectible by the overseer, as such, by action in justice's court, and shall be applied to the purposes specified in this section. The overseer shall be liable to a penalty of five dollars per day, for every day he neglects, without good and sufficient reasons, to have such highway opened without delay after receiving such written notice, the penalty to be collected in justice's court, by the person first suing for the same, and the penalty shall be paid over to the commissioners of highways, for the use of the town.

§ 22. Penalties against overseers.—Every overseer of highways who shall refuse or neglect,

1. To warn the persons and corporations assessed to work on the highways, when he shall have been required so to do, by the commissioners or either of them.

2. To collect the moneys that may arise from fines or commutations.

3. To perform any of the duties required by this chapter, or which may be enjoined on him by the commissioners of highways of his town, and for the omission of which no other penalty is provided, shall for every such refusal or neglect, forfeit the sum of ten dollars.

§ 23. Penalties, how collected.—The commissioners of highways shall prosecute, in the name of the town, every overseer of highways, for any penalties known to the commissioners to have been incurred by the overseer. They shall also upon the complaint of any resident of the town, that any such penalty has been incurred, prosecute such overseer therefor, if satisfied that the complaint is well founded. The costs and expenses incurred by the commissioners in good faith,

in such proceedings, shall be a town charge, to be audited by the town board. If the commissioners refuse or neglect to prosecute for any such penalty, for thirty days after such complaint shall have been made, the complainant may prosecute therefor in the name of the town, upon indemnifying the town for the costs and expenses of such prosecution, in such manner as the supervisor may approve. If the commissioner shall neglect or refuse to prosecute for any such penalty, knowing that the same has been incurred, he shall be liable to a penalty of ten dollars for every such neglect or refusal, to be recovered by action, in the name of the town, brought by the supervisor, or by any taxpayer of the town who may indemnify the town, for the costs and expenses of the action, in such manner as the supervisor may approve.

§ 24. **Compensation of overseers.**—If any overseer shall be employed more days in executing the several duties enjoined upon him by this chapter, than he is assessed to work on the highways, he shall be paid for the excess, at the rate of twelve and a half cents per hour for each day, and be allowed to retain the same out of the money which may come into his hands under this chapter; but he shall not be permitted to commute for the days he is assessed.

ARTICLE II.

ASSESSMENT FOR HIGHWAY LABOR.

SECTION 30. Meetings of commissioners.

31. Lists of inhabitants.
32. Non-resident lands.
33. Assessments of highway labor, how made.
34. Copies of lists delivered to overseers.
35. Names omitted.
36. Appeals by non-residents.
37. Credit on private roads.
38. Certain assessments to be separate.
39. Tenant to deduct assessment.
40. Reassessment in case of neglect.
41. Omissions of assessors corrected.
42. New assessments by overseers.
43. Sidewalks and trees.
44. Abatement of tax for shade trees.
45. Sidewalk tax anticipated.
46. Certificate of anticipation.
47. Transfer of certificate.
48. Abatement of tax for watering trough.
49. System of taxation defined.
50. Town may change its system.

SECTION 51. Vote thereon.

- 52. When change to take effect.
- 53. Annual tax thereunder.
- 54. Adoption of county road system.
- 55. County engineer.
- 56. Expense of county roads.
- 57. How funds to be raised.
- 58. Control of county roads.

SECTION 30. Meetings of commissioners.—The commissioners of highways of each town shall meet within eighteen days after the annual town-meeting, at the town clerk's office, on such day as they shall agree upon, and afterwards at such other times and places as they shall think proper.

§ 31. Lists of inhabitants.—Each of the overseers of highways shall deliver to the clerk of the town, within sixteen days after his appointment, a list subscribed by him, of the names of all the inhabitants in his highway district, who are liable to work on the highways; and the town clerk shall deliver such lists to the commissioners of highways.

§ 32. Non-resident lands.—The commissioners of highways in each town, before making the assessment of highway labor, shall make out a list and statement, of the contents of all unoccupied lots, pieces or parcels of land within the town, owned by non-residents; every lot so designated, shall be described in the same manner as is required from assessors, and its value shall be set down opposite to the description; such value shall be the same as was affixed to the lot in the last assessment-roll of the town; and if such lot was not separately valued in such roll, then in proportion to the valuation which shall have been affixed to the whole tract, of which such lot shall be a part.

§ 33. Assessments of highway labor, how made.—The commissioners of highways shall, at their first or some subsequent meeting, ascertain, assess and apportion the highway labor to be performed in their town, in the then ensuing year, as follows:

1. The whole number of days work to be assessed in each year, shall be ascertained, and shall be at least three times the number of taxable inhabitants in the town.

2. Every male inhabitant being above the age of twenty-one years (excepting all honorably discharged soldiers and sailors who lost an arm or leg in the service of the United States, during the late war, or who are unable to perform manual labor by reason of injuries received, or disabilities incurred in such service, persons seventy years of age, clergymen and priests of every denomination, paupers, idiots and lunatics), shall be assessed at least one day.

3. The residue of such days work, shall be apportioned and assessed upon the estate, real and personal, of every inhabitant of the

town, including corporations liable to taxation therein, as the same shall appear by the last assessment-roll of the town, and upon each tract or parcel of land owned by non-residents of the town contained in the list made by the commissioners, excepting such as are occupied by an inhabitant of the town, which shall be assessed to the occupant. The assessment of labor for personal property, must be in the district in which the owner resides, and real property in the district where it is situated, except that the assessment of labor upon the property of corporations, may be in any district or districts of the town, and such labor may be worked out or commuted for, as if the corporation were an inhabitant of the district; but the real property within an incorporated village or city, exempted from the jurisdiction of the commissioners of highways of the town, and personal property of an inhabitant thereof, shall not be assessed for highway labor by the commissioners of highways of the town. Whenever the assessors of any town shall have omitted to assess any inhabitant, corporation or property therein, the commissioners of highways shall assess the same, and apportion the highway labor as above provided.

4. The commissioners shall affix to the name of each person named in the lists furnished by the overseers, and of assessable corporations, and to the description of each tract or parcel of land contained in the list prepared by them of non-resident lands, the number of days which such person or tract shall be assessed for highway labor, as herein directed, and the commissioners shall subscribe such lists, and file them with the town clerk.

5. If the commissioners of highways shall neglect for one year, after any highway shall have been laid out, and title thereto acquired, to open or work the same, or any part thereof, and any inhabitant or corporation of the town, in or through which the highway runs, shall give ten days notice to the commissioners of the town, that they desire to apply the whole or any part of their highway labor to the working of such highway, the commissioners shall assign such inhabitants and corporations to such highway district, direct the highway labor for which they are annually assessed to be applied to the same, and cause the same to be worked and put in good order for vehicles and travelers within one year, under the direction of any such inhabitants whom such commissioners may appoint as an overseer of the labor so to be applied to such highway; and when the number of days labor assessed in the current year to such inhabitants, as the annual highway tax, is not sufficient to put such highway in good order, the inhabitants and corporations may anticipate the whole or

any part of the highway labor assessed, and to be assessed against them, for a period not exceeding three years, but from no one of the districts of the town shall more than one-half of its annual labor be taxed and applied to any highway not embraced in such district.

§ 34. **Copies of list delivered to overseers.**—The commissioners of highways shall direct the clerk of the town to make copies of such lists, and shall subscribe such copies, after which they shall cause the several copies to be delivered to the respective overseers of highways of the several districts in which the highway labor is assessed, and the acceptance of the list by any overseer to whom the same may be delivered, shall be deemed conclusive evidence of his acceptance of the office of overseer.

§ 35. **Names omitted.**—The names of persons or corporations omitted from any such list, and of new inhabitants, shall from time to time be added to the several lists, and they shall be assessed by the overseers in proportion to their real and personal estate to work on the highways as others assessed by the commissioners on such lists, subject to an appeal to the commissioners of highways.

§ 36. **Appeals by non-residents.**—Whenever any non-resident owner of unoccupied lands shall conceive himself aggrieved by any assessment of any commissioner of highways, such owner, or his agent, may, within thirty days after such assessment, appeal to the county judge of the county in which such land is situated, who shall, within twenty days thereafter, hear and decide such appeal, the owner or agent giving notice to the commissioners of highways of the time of the hearing before the judge, and his decision thereupon shall be final and conclusive.

§ 37. **Credit on private roads.**—The commissioners of highways of each town shall credit to such persons as live on private roads and work the same, so much on account of their assessments as the commissioners may deem necessary to work such private road, or shall annex the private roads to some of the highway districts.

§ 38. **Certain assessments to be separate.**—Whenever the commissioners of highways shall assess the occupant, for any land not owned by such occupant, they shall distinguish in their assessment lists, the amount charged upon such land, from the personal tax, if any, of the occupant thereof; but when any such land shall be assessed in the name of the occupant, the owner thereof shall not be assessed during the same year to work on the highways, on account of the same land.

§ 39. **Tenant to deduct assessment.**—Whenever any tenant of

any land for a less term than twenty-five years, shall be assessed to work on the highways for such land, and shall actually perform such work, or commute therefor, he shall be entitled to a deduction from the rent due, or to become due from him for such land, equal to the full amount of such assessment, estimating the same at the rate of one dollar per day, unless otherwise provided for by agreement between the tenant and his landlord.

§ 40. Reassessment in case of neglect.—If it shall appear from the annual return of any overseer of highways, that any person or corporation who was assessed to work on the highways (other than non-residents), has neglected to work the whole number of days assessed, and has not commuted for, or otherwise satisfied such deficiency, the commissioners of highways shall reassess the deficiency to the person so delinquent, at the next assessment for work for highway purposes, and add to it his annual assessment; such reassessment shall not exonerate any overseer of highways from any penalty which he may have incurred under the provisions of this chapter.

§ 41. Omissions of assessors corrected.—Whenever the assessors of any town shall have omitted to assess any inhabitant or property in their town, the commissioners of highways shall assess the persons and property so omitted, and shall apportion highway labor upon such persons or property, in the same manner as if they had been duly assessed upon the last assessment-roll.

§ 42. New assessments by overseers.—When the quantity of labor assessed on the inhabitants of any district by the commissioners of highways, shall be deemed insufficient by the overseer of the district to keep the highways therein in repair, such overseer shall make another assessment on the actual residents of the district, in the same proportion, as near as may be, and not exceeding one-third of the number of days assessed in the same year by the commissioners, on the inhabitants of the district; and the labor so assessed by an overseer, shall be performed or commuted for in like manner, as if the same had been assessed by commissioners of highways.

§ 43. Sidewalks and trees.—The commissioners of highways may, by an order in writing duly certified by a majority of them, authorize the owners of property adjoining the highways, at their own expense, to locate and plant trees, and locate and construct sidewalks along the highways in conformity with the topography thereof, which order, with a map or diagram showing the location of the

sidewalk and tree planting, certified by the commissioners, shall be filed in the office of the clerk of the town where the highway is located, within ten days after the making of the order.

(R. S., p. 1400 ; post, p. 917.)

§ 44. **Abatement of tax for shade trees.**—Any inhabitant liable to highway tax, who shall hereafter, pursuant to such an order, transplant by the side of the highway adjoining his premises, any forest shade trees, fruit trees, or any nut bearing trees, suitable for shade trees, shall be allowed by the overseers of highways, or other officer having charge of the highway, in abatement of his highway tax, one dollar for every four trees set out ; but all trees must have been set out the year previous to such allowance, and be living and well protected from animals at the time of the allowance, and not further than eight feet from the outside line of any highway three rods wide, and not more than one additional foot further therefrom, for each additional rod in width of highway, and not less than seventy feet apart, on the same side of the highway, if elms, or fifty feet, if other trees ; trees transplanted by the side of the highway, in place of trees which have died, shall be allowed for in the same manner. Such abatement of highway tax to any person, shall not exceed one-quarter of his annual highway tax in any one year ; but such abatement shall be allowed by the overseers of highways, or other officers having charge of the highway, annually, until it shall have equalled the whole number of trees set out, at the rate herein specified.

§ 45. **Sidewalk tax anticipated.**—The commissioners of highways of any town, may, upon the written application of a majority of the inhabitants in any highway district, subject to assessment for highway labor therein, authorize not more than one-quarter of the highway labor of the district, or of the commutation money received therefor, to be expended under the direction of the overseer of highways of the district, in the construction, repairs and improvement of any sidewalks within the limits of the district, and may by writing signed by them, filed with the town clerk, authorize not more than one-fourth of the highway labor of the district, to be anticipated for not more than three years, for constructing, improving or repairing any such sidewalks ; and thereupon any person or corporation, assessed for highway labor in the district, may, for such purpose, anticipate his or its assessment for highway labor for the term prescribed by the commissioners, and may perform such labor,

* So in the original.

under the direction of the overseer within such time, or commute therefor.

§ 46. **Certificate of anticipation.**—The overseer shall give to such person or corporation, upon the performance of such labor or commutation therefor, a certificate signed by him, showing the number of days labor so anticipated and worked, or commuted for by such person or corporation; and in each succeeding year, upon presentation of such certificate, the person or corporation shall be credited and allowed by the overseer of highways, with the performance of the number of days labor assessed for such year, until the credit shall equal the number of days stated in the certificate to have been anticipated, and shall indorse thereon a statement signed by him, showing the credit and allowance.

§ 47. **Transfer of certificate.**—Such certificate may be transferred to any grantee; upon a voluntary grant of the real property upon which such highway labor is assessable, and if such real property is transferred otherwise than by voluntary grant, it shall be deemed to have been transferred to the person succeeding thereto, and in the hands of any such transferee, it shall have the same effect as when held by the original owner.

§ 48. **Abatement of tax for watering trough.**—The commissioners of highways shall annually abate three dollars from the highway tax of any inhabitant of a highway district, who shall construct on his own land therein, and keep in repair a watering trough beside the public highway, well supplied with fresh water, the surface of which shall be two or more feet above the level of the ground, and easily accessible for horses with vehicles; but the number of such watering troughs in the district, and their location, shall be designated by the commissioners.

§ 49. **System of taxation defined.**—The system of taxation for working and repairing highways, as hereinbefore provided, shall be known as "The Labor System of Taxation," and the system hereinafter provided, shall be known as "The Money System of Taxation."

§ 50. **Town may change its system.**—Any town may change its system of taxation for working and repairing its highways, by complying with the following provisions relating thereto.

§ 51. **Vote thereon.**—Upon the written request of twenty-five tax-payers of any town, the electors thereof may, at an annual town meeting vote by ballot upon the question of changing the system of taxation for working the highway; but no person residing in an incorporated village or city, exempted from the jurisdiction of commissioners of

highways of the town, shall sign such request, or vote upon such question.

Am'd by chap. 386 of 1895. Took effect April 23, 1895.

§ 52. When change to take effect.—When a town shall have voted to change the system of working and repairing the highways, as herein provided, such change shall not take effect until the next annual meeting of the board of supervisors, after the town meeting at which it was decided to make the change; and until such annual meeting of the board of supervisors the former system of repairing highways shall remain in force in such town. In each town of Westchester county such change shall be for a term not less than five years.

Am'd by chap. 386 of 1895. Took effect April 23, 1895.

§ 53. Annual tax thereunder.—Any town voting in favor of the money system, shall annually raise by tax, to be levied and collected the same as other town taxes, for the repair of the highways, an annual sum of money, which shall be equal to at least one-half the value at the commutation rates, of the highway labor which should be assessable under the labor system; but in any town in which there may be an incorporated village, which forms a separate road district, and wherein the roads and streets are maintained at the expense of such village, all property within such village shall be exempt from the levy and collection of such tax for the repair of highways of such town; and the assessors of such town are hereby required to indicate on the assessment-roll the property included in such incorporated village, in a column separate from that containing a list of the property in the town not included in such village; and shall also place on the assessment-roll the names of all persons liable to poll tax who are not residents of such village, and the board of supervisors are directed to levy a tax of one dollar on each person liable to poll-tax as thus indicated; but this act shall not apply to assessments made for damages and charges for laying out or altering any road, or for erecting or repairing any bridge in such town. The amount of such tax shall be determined by the commissioners of highways and the town board who shall certify the same to the board of supervisors, the same as any other town charge.

Am'd by chap. 412 of 1898.

§ 54. Adoption of county road system.—The board of supervisors of any county may, by a vote of a majority of the members thereof, by resolution, adopt the county road system, and shall as soon as practicable after the adoption of such resolution, cause to be designated as county roads, such portions of the public highways in such county as they shall deem advisable, outside of the limits of any city in such county, and shall cause such designation and a map of such county roads to be filed in the clerk's office of such county; the roads so designated shall, so far as practicable, be leading market roads in such county.

Am'd by chap. 333 of 1893 and by chap. 375 of 1895. Took effect April 23, 1895.

§ 55. County engineer.—There shall be a county engineer in every such county, who shall be appointed by the board of supervisors thereof, and be removable at its pleasure. The term of office of each county engineer shall be three years, unless sooner removed, and his salary shall be fixed by the board of supervisors and be a county charge.

Added by chap. 333 of 1893.

§ 56. Expense of county roads.—The expense of improving, repairing and maintaining the county roads of each county, shall be a county

charge, and in any county in which during the past five years there has been expended at least the sum of five hundred thousand dollars for macadamizing purposes, the expense of constructing, improving, maintaining and repairing such county roads, shall be annually apportioned by the board of supervisors of the county, upon the various towns and cities within the county, as the said board may deem just. The money necessary to improve, repair and maintain the county roads or to pay the principal and interest of any bonds issued as provided in the next section, shall be levied and collected at the same time and in the same manner as money for other county charges is levied and collected. The board of supervisors shall designate the amount of money to be expended upon each county road, and may make rules and regulations for the government of the county engineer and regulating the expenditure of such money.

Am'd by chap. 333 of 1893 and by chap. 375 of 1895. Took effect April 23, 1895.

§ 57. **How funds to be raised.**—The board of supervisors of such county may borrow money from time to time for the construction, maintenance and repair of the county roads in such county, and may issue the bonds and other evidences of indebtedness of the county therefor; but such bonds or other evidences of indebtedness shall not bear a rate of interest exceeding five per centum per annum, and shall not be for a longer term than twenty years, and shall not be sold for less than par.

Added by chap. 333 of 1893.

§ 58. **Control of county roads.**—The county roads in any county shall be exclusively under the jurisdiction of the board of supervisors and the county engineer of the county, and exempt from the jurisdiction of the highway officers or officers performing the duty of highway commissioners of the several towns and villages in which such county roads are located. The system of taxation for working and repairing the highways other than the county roads in a town in a county in which the county road system is adopted, shall be the money system of taxation, provided, however, that in the county of Queens, the system as now provided by special act shall be continued.

Am'd by chap. 333 of 1893 and by chap. 375 of 1895. Took effect April 23, 1895.

ARTICLE III.

THE DUTIES OF OVERSEERS OF HIGHWAYS, AND THE PERFORMANCE OF HIGHWAY LABOR.

SECTION 60. Notice to work.

61. Notice to non-residents.
62. Commutation.
63. Teams and implements.
64. Substitutes.
65. Penalties for neglect to work or commute.
66. Assessment for unperformed labor.
67. Penalty for refusal of overseer to provide list.
68. Collection of arrearages for unperformed labor.
69. Annual return of overseers.
70. Noxious weeds in highway.
71. Overseers to notify occupant to remove weeds.
72. Abatement of tax for removal of fence.
73. Abatement of tax for street lamps.
74. Rebate of tax for using wagon tires of certain length.

SECTION 60. Notice to work.—Every overseer of highways shall give at least twenty-four hours' notice to all residents of his district, and corporations assessed to work upon the highways therein, of the time and place at which they are to appear for that purpose, and with what teams and implements, and that they will be allowed at the rate

of one day for every eight hours of work on the highways, between seven o'clock in the forenoon and six o'clock in the afternoon. The notice to corporations shall be served personally on an agent thereof residing in the town, if any, or if none, by filing the notice in the office of the town clerk, at least five days before the labor shall be required; and any number of days not exceeding fifty, may be required to be performed by any such corporation in any one day.

§ 61. Notice to non-residents.—Every overseer of highways shall give at least five days notice to every resident agent of every non-resident land-holder, whose lands are assessed, of the number of days such non-resident is assessed, and the time and place at which the labor is to be performed. If the overseer can not ascertain that such non-resident has an agent within the town, he shall file a written notice in the office of the town clerk, at least twenty days before the time appointed for performing such labor, containing the names of such non-residents, when known, and a description of the lands assessed, with the number of days labor assessed on each tract, and the time and place at which the labor is to be performed.

§ 62. Commutation.—Every person and corporation shall work the whole number of days for which he or it shall have been assessed, except such days as shall be commuted for, at the rate of one dollar per day, and such commutation money shall be paid to the overseers of highways of the district in which the labor shall be assessed, within at least twenty-four hours before the time when the person or corporation is required to appear and work on the highways; but any corporation may pay its commutation money to the commissioners of highways of the town, who shall pay the same to the overseers of the districts, respectively, in which the labor commuted for was assessed, except in the counties of Onondaga, Columbia, Wayne, Erie, Sullivan, Broome and Orange, where such commutation money shall be paid on or before the first day of June of each year, to the commissioner or commissioners of highways of the town in which the labor shall be assessed, and such commutation money shall be expended by the commissioner or commissioners of highways upon the roads and bridges of the town as may be directed by the town board.

Am'd by ch. 973 of 1896. In effect May 28, 1896.

§ 63. Teams and implements.—Every overseer of highways may require a team, or a cart, wagon or plow, with a pair of horses or oxen, and a man to manage them, from any person having the same within his district, who shall have been assessed three days or more, and who shall not have commuted for his assessment; and the person furnishing the same upon such requisition, shall be entitled to a credit of three days for each day's service therewith.

§ 64. Substitutes.—Every person or corporation assessed to work on the highways, and warned, who does not commute therefor, may appear in person or by an able bodied man as a substitute. A day's labor shall be eight hours of work, and every person or corpora-

*So in the original.

tion assessed more than one day shall be allowed to work ten hours in each day.

§ 65. **Penalties for neglect to work or commute.**—Every person or corporation assessed highway labor, who shall not commute, and who shall not appear and work when duly notified, shall be liable to a penalty of one dollar and fifty cents for every day he shall so fail to appear and work; and for wholly omitting to comply with any requisition to furnish a team, cart, wagon, implements and man, he shall be liable to a penalty of five dollars for each day's omission, and for omitting to furnish either a cart, wagon, plow, team or man to manage the team, he shall be liable to a penalty of one dollar and fifty cents for each day's omission; and if any person shall after appearing, remain idle, or not work faithfully, or hinder others from working, he shall be liable to a penalty at the rate of one dollar and fifty cents a day, for each hour. The penalties herein imposed, may be recovered by action by the overseer of highways as such, and, when collected, shall be expended or disposed of by the overseer in the same manner as commutation moneys. The penalties, when recovered, shall be applied in satisfaction of the labor assessed, for omission to perform which, the penalties were respectively imposed. The overseer of highways may excuse any omission to perform labor when required, if a satisfactory reason shall be given therefor; but the acceptance of any such excuse shall not exempt the person excused from commuting for, or working the whole number of days for which he shall have been assessed during the year.

§ 66. **Assessment for unperformed labor.**—Every overseer of highways shall, on or before the first day of October in each year, make out and deliver to the supervisor of his town, a list of all persons and corporations who have not worked out, or commuted for their highway assessment, with the number of days not worked or commuted for by each, charging for each day in such a list, at the rate of one dollar and fifty cents per day; and also a list of all the lands of non-residents and persons unknown, which were assessed on his warrant by the commissioners of highways, or added by him, on which the labor assessed has not been performed or commuted for, and the number of days labor unpaid by each, charging for the same at the rate of one dollar and fifty cents per day, which list shall be accompanied by the affidavit of the overseer, that he has given the notice required, to appear and work, and that the labor specified in the list returned, has not been performed or commuted.

and the supervisor shall present such lists to the board of supervisors of his county.

§ 67. **Penalty for refusal of overseer to provide list.**—If any overseer shall refuse or neglect to deliver such list to the supervisor or to make the affidavits as herein directed, he shall for every such offense, forfeit the sum of ten dollars, and the amount of taxes for labor remaining unpaid, at the rate of one dollar for each day assessed, to be recovered by the commissioners of highways, and applied in making and improving the highways and bridges of the delinquent overseer's district.

§ 68. **Collection of arrearages for unperformed labor.**—Each board of supervisors, at its annual meeting in each year, shall cause the amount of such arrearages for highway labor returned to them, estimating each day's labor at one dollar and fifty cents a day, to be levied and collected from the real or personal estate of the person, corporation, or from the non-resident real estate, specified in such list, to be collected by the collectors of the several towns, in the same manner that other town taxes are collected, and shall order the same, when collected, to be paid over to the commissioners of highways of the town wherein the same is collected, to be by them applied toward the construction, repairs and improvement of the highways and bridges in the district in which the labor was originally assessed.

§ 69. **Annual return of overseers.**—Every overseer of highways shall, on the second Tuesday next preceding the time of holding the annual town-meeting in his town, within the year for which he is elected or appointed, render to one of the commissioners of highways of the town, an account in writing, verified by his oath, and containing,

1. The names of all persons assessed to work on the highways in the district of which he is overseer.

2. The names of all those who have actually worked on the highways, with the number of days they have so worked.

3. The names of all those from whom penalties have been collected, and the amounts thereof.

4. The names of all those who have commuted, and the manner in which the moneys arising from penalties and commutations have been expended by him.

5. A list of all persons whose names he has returned to the supervisor as having neglected or refused to work out their highway assessments, with the number of days and the amount of tax so re-

turned for each person, and a list of all the lands which he has returned to the supervisor for non-payment of taxes, and the amount of tax on each tract of land so returned; and he shall then and there pay to the commissioners of highways, all money remaining in his hands unexpended, to be applied by them in making and improving the highways and bridges of the town, in such manner as they shall direct; and if he shall neglect or refuse to render such account, or if, having rendered the same, he shall refuse or neglect to pay any balance which then may be due from him, he shall for every such offense, forfeit the sum of ten dollars.

§ 70. Noxious weeds in highway. — Every person or corporation, owning or occupying, under a lease for one or more years, any cultivated or inclosed lands, abutting upon any highway, shall cause all noxious weeds, briars, and brush growing upon such lands within the bounds of the highway, to be cut or destroyed between the fifteenth day of June and the first day of July, and between the fifteenth day of August and the first day of September, in each and every year; but boards of supervisors may fix a different period or periods, for such cutting or destruction in their respective counties. No person shall place or cause to be placed, any noxious weeds, or the seeds of such weeds, within the bounds of any public highway. Any willful violation of this section, shall subject the person or corporation so offending, to a penalty of ten dollars for each offense.

§ 71. Overseers to notify occupants to remove weeds. — The overseers of every highway district shall give written notice to any occupant of the premises to cut all weeds, briars and brush growing within the bounds of the highway; if such occupant shall not cut such weeds, briars and brush as so required within ten days after receiving such notice, such overseer shall employ some one to do such work, and and* make a report under oath to the commissioners of highways, of the amount expended by him thereon, and the ownership and occupancy of the several parcels of land against which the labor was performed, on or before the first day of November in each year; the commissioners of highways shall certify these statements to the supervisor of the town, and the supervisor shall lay the same before the board of supervisors at its next annual meeting, and such board shall include the amounts included in such statements in the taxes assessed upon the lands, upon or against which the labor was performed, the same to be collected with the other taxes, and paid over upon the order of the supervisor to the parties entitled thereto.

*So in the original.

§ 72. **Abatement of tax for removal of fence.**—Any inhabitant liable to a highway tax, who shall remove from lands owned or occupied by him, the fence along any public highway, for the purpose of preventing the drifting of snow into such highway, shall be allowed by the overseer of highways, in abatement of his highway tax, the time actually expended in removing such fence, and in replacing the same, pursuant to the directions of the overseer of highways.

§ 73. **Abatement of tax for street lamps.**—Any person or corporation owning or holding real estate, or other property liable to highway tax, except in the county of Kings, other than in cities and incorporated villages, who shall, with the consent of the overseers of highways in charge of the district in which such property is assessed, and in such places as he may direct, erect a street lamp, and cause the same to be properly attended to and kept burning during such hours of each night as the overseer of highways may direct, shall be allowed by the overseer of highways, in abatement of such highway tax, six dollars annually, or such portion of six dollars as the annual highway taxes upon such real estate or other property may be.

§ 74. **Rebate of tax for using wagon tires of certain width.**—Every person who, during the year ending June first, eighteen hundred and ninety-three and each succeeding year thereafter, uses on the public highways of this state only wagons or vehicles with wheels upon which two or more horses are used the tire of which shall be not less than three inches in width, shall receive a rebate of one-half of his assessed highway tax for each such year, not exceeding however in any one year the sum of four dollars or four days' labor. The right to such rebate shall not be affected by the use upon the public highways of buggies, carriages and spring wagons carrying a weight not exceeding one thousand pounds. Upon making an affidavit showing that he has complied with the provisions of this section during any such year, he shall be credited by the overseer of highways of the road district in which he resides or any road district where he is assessed with such rebate. Such affidavit may be taken before any overseer of highways who is hereby authorized to administer such oath.

Added by chap. 468 of 1893.

ARTICLE IV.

LAYING OUT, ALTERING AND DISCONTINUING HIGHWAYS, AND LAYING OUT PRIVATE ROADS.

- SECTION 80.** Highways by dedication.
 81. Survey.
 82. Application.
 83. Application for commissioners.
 84. Appointment of commissioners and their duties.
 85. Notice of meeting.
 86. Decision of commissioners in favor of application.
 87. Damage in certain cases, how estimated.
 88. Decision of commissioners denying application.
 89. Motion to confirm, vacate or modify.
 90. Limitation upon laying out highways.
 91. Laying out highways through burying grounds.
 92. Costs, by whom paid.
 93. Damages assessed, and costs to be audited.
 94. When officers of different towns disagree about highway.
 95. Difference about improvements.
 96. Highways in two or more towns.
 97. Laying out highway upon town line.
 98. Final determination, how carried out.
 99. Highways abandoned.
 100. Highways by use.

SECTION 101. Fences to be removed.

102. Penalty for falling trees.
103. Fallen trees to be removed.
104. Penalty for obstruction or encroachment.
105. How removed, and liability for not removing.
106. Private road.
107. Jury to determine necessity, and assess damages.
108. Copy application and notice delivered to applicant.
109. Copy and notice to be served.
110. List of jurors.
111. Names struck off.
112. Place of meeting.
113. Jury to determine and assess damages.
114. Their verdict.
115. Value of highway discontinued.
116. Papers to be recorded in town clerk's office.
117. Damages to be paid before opening the road.
118. Fees of officers.
119. Motion to confirm, vacate or modify.
120. Costs of new hearing.
121. For what purpose private road to be used.
122. Highways or roads along division lines.
123. Adjournments.

§ 80. **Highways by dedication.**—Whenever land is dedicated to a town for highway purposes therein, the commissioners of highways of such town may, either with or without a written application therefor, and without expense to the town, make an order laying out such highway, upon filing and recording in the town clerk's office, with such order, a release of the land from the owner thereof. Such commissioners of highways may also, upon written application, and with the written consent of the town board, make an order laying out or altering a highway in their town, upon filing and recording in the town clerk's office, with such application, consent and order a release of all damages from the owners of lands taken or affected thereby, when the consideration for such release, as agreed upon between such commissioners and owners, shall not, in any one case, from any one claimant, exceed one hundred dollars, and from all claimants, five hundred dollars. An order of the commissioners, as herein provided, shall be final.

§ 81. **Survey.**—Whenever the commissioners of highways shall lay out any highway, either upon application to them or otherwise, they shall cause a survey thereof to be made, and shall incorporate the survey in an order to be signed by them, and to be filed and recorded in the office of the town clerk, who shall note the time of recording the same.

§ 82. **Application.**— Any person or corporation assessable for highway labor may make written application to the commissioners of highways of the town in which he or it shall reside, or is assessable, to alter or discontinue a highway, or to lay out a new highway.

§ 83. **Application for commissioners.**— Whenever the land is not dedicated to the town for highway purposes and not released as herein provided, the applicant shall, within thirty days after presenting the application to the commissioners of highways, and after at least five days' notice to said commissioners of the time and place of the application to the county court, in this section provided for, by verified petition showing the applicant's right to so present the same, and that such application has been in good faith presented, and if the county judge require, on such notice to such parties interested as he shall direct, apply to the county court of the county where such highway shall be, for the appointment of three commissioners to determine upon the necessity of such highway proposed to be laid out or altered, or to the uselessness of the highway proposed to be discontinued and to assess the damages by reason of the laying out, opening, altering or discontinuing of such highway. Such application to the county court shall be accompanied by the written undertaking of the applicant executed by one or more sureties, approved by the county judge, to the effect that if the commissioners appointed determine that the proposed highway or alteration is not necessary or that the highway proposed to be discontinued is not useless, the sureties will pay to the commissioners their compensation at the rate of six dollars for each day necessarily spent and all costs and expenses necessarily incurred in the performance of their duties, which amount shall not exceed the sum of fifty dollars.

Am'd by chap. 334 of 1894. Took effect April 19, 1894.

§ 84. **Appointment of commissioners and their duties.**— Upon the presentation of such petition, the county court shall appoint three disinterested freeholders, who shall not be named by any person interested in the proceedings, who shall be residents of the county, but not of the town wherein the highway is located, as commissioners to determine the questions mentioned in the last section. They shall take the constitutional oath of office, and appoint a time and place at which they shall all meet to hear the commissioners of highways of the town where such highway is situated, and others interested therein. They shall personally examine the highway described in the application, hear any reasons that may be offered for or against the laying out, altering or discontinuing of the highway, and assess all damages by reason thereof. They may adjourn the proceedings before them from time to time, issue subpoenas and administer oaths in such proceedings, and they shall keep minutes of their proceedings, and shall reduce to writing all oral evidence given before them upon the subject of the assessment of damages. They shall make duplicate certificates of their decision, and shall file one in the town clerk's office of the town, and the other, with such minutes and evidence, in the county clerk's office of the county in which the highway or proposed highway is located.

§ 85. **Notice of meeting.**— The applicant shall cause, at least eight days previous, written or printed notice to be posted up in not less than three public places in the town specifying, as near as may

be, the highway proposed to be laid out, altered or discontinued, the tracts or parcels of land through which it runs, and the time and place of the meeting of the commissioners appointed by the county court to examine the highway as mentioned in the last section. Such notice shall also, in like time, be personally served on the owner and occupant of the land, if they reside in the town, or by leaving the same at their residence with a person of mature age; if they do not reside in the same town, or service can not be made, a copy of such notice shall be mailed to such owner or occupant, if their post office address is known to the applicant or ascertainable by him upon reasonable inquiry.

§ 86. Decision of commissioners in favor of application.—If a majority of the commissioners appointed by the county court shall determine that the highway or alteration applied for is necessary, or that the highway proposed to be discontinued is useless, they shall assess all damages which may be required to be assessed by reason thereof and make duplicate certificates to that effect.

§ 87. Damages in certain cases, how estimated.—The owner of lands within the bounds of a highway discontinued may inclose the same and have the exclusive use thereof, and the benefits resulting therefrom may be deducted in the assessment of damage caused by the laying out of a highway through his other lands in place of the discontinued highway.

§ 88. Decision of commissioners denying application.—If a majority of the commissioners appointed by county court shall determine that the proposed highway or alteration is not necessary, or that the highway proposed to be discontinued is not useless, they shall make duplicate certificates to that effect. The costs and expenses necessarily incurred by such commissioners in the proceedings shall be indorsed upon such duplicate certificates, and upon a confirmation of such decision and of the amount of such costs and expenses by the county court, such costs and expenses not exceeding fifty dollars shall be payable by the applicants. Am'd by chap. 334 of 1894. Took effect April 19, 1894.

§ 89. Motion to confirm, vacate or modify.—Within thirty days after the decision of the commissioners shall have been filed in the town clerk's office any party interested in the proceeding may apply to the court if in session or to the county judge appointing the commissioners for an order confirming, vacating or modifying their decision, and such court or judge may confirm, vacate or modify such decision. If the decision be vacated the court or judge may order another hearing of the matter before the same or other commissioners. If no such motion is made, the decision of the commissioners shall be deemed final. Such motion shall be brought on, upon the service of papers upon adverse parties in the proceeding, according to the usual practice of the court in actions and special proceedings pending therein; and the decision of the county court or judge shall be final, excepting that a new hearing may be ordered as herein provided. If the final decision shall be adverse to the applicant, no other application for laying out, altering or discontinuing the same highway shall be made within two years.

Am'd by ch. 716 of 1895. Took effect May 23, 1895.

§ 90. **Limitations upon laying out highways.**— No highways shall be laid out less than three rods in width, nor through an orchard of the growth of four years or more, or any garden cultivated as such for four years or more, or grape vineyard of one or more years growth, and used in good faith for vineyard purposes, or buildings, or any fixtures or erections for the purposes of trade or manufactures, or any yard or inclosure necessary to the use and enjoyment thereof, without the consent of the owner or owners thereof, unless so ordered by the county court of the county in which the proposed highway is situated; such order shall be made on the certificate of the commissioners of highways of the town or towns in which the proposed highway is situated, showing that the public interest will be greatly promoted by the laying out and opening of such highway, and that commissioners appointed by the court have certified that it is necessary; a copy of the certificate, with eight days notice of the time and place of the hearing before the county court, shall be served on the owners of the land, or if they are not residents of the county, upon the occupants; the county court upon such certificates, and the proofs and other proceedings therein, may order the highway to be laid out and opened, if it deems it necessary and proper. The commissioners of highways shall then present the order of the county court, with the certificate and proofs upon which it was granted, certified by such court to the general term of the supreme court in the judicial department in which the land is situated, upon the usual notice of motion, served upon the owner or occupant, or the attorney who appeared for them in the county court. If such general term of the supreme court shall confirm the order of the county court, the commissioners of highways shall then lay out and open such highway as in other cases. The provisions of this section shall not apply to vineyards planted, or to buildings, fixtures, erections, yards or inclosures, made or placed on such land after an application for the laying out and opening the highway shall have been made. In case the highway to be laid out shall constitute an extension or continuation of a public highway already in use, and shall not, as to such new portion, exceed half a mile in length, the commissioners may lay out such extension or continuation, of a width of less than three rods, provided, however, that it be not less than the widest part of the highway of which it is an extension or continuation. In such case the commissioners shall specify in their certificate the precise width of the new portion of such highway, and shall certify that such width is as great at least as the widest part of the highway of which it is a continuation or extension.

Am'd by ch. 508 of 1895. Took effect May 2, 1895.

§ 91. **Laying out highways through burying-grounds.**— No private road or highway shall be laid out or constructed upon or through any burying-ground, unless the remains therein contained are first carefully removed, and properly reinterred in some other burying-ground, at the expense of the persons desiring such road or

highway, and pursuant to an order of the county court of the county in which the same is situated, obtained upon notice to such persons as the court may direct.

§ 92. **Costs, by whom paid.**—In all cases of assessments of damages by commissioners appointed by the court, the costs thereof shall be paid by the town except when reassessment of damages shall be had on the application of the party for whom the damages were assessed, and such damages shall not be increased on such reassessment, the costs shall be paid by the party applying for the reassessment; and when application shall be made by two or more persons for the reassessment of damages, all persons who may be liable for costs under this section, shall be liable in proportion to the amount of damages respectively assessed to them by the first assessment, and may be recovered by action in favor of any person entitled to the same. Each commissioner appointed by the court, for each day necessarily employed as such, shall be entitled to six dollars and his necessary expenses.

§ 93. **Damages assessed, and costs to be audited.**—All damages to be agreed upon, or which may be finally assessed, and costs against the town, as herein provided, shall be laid before the board of supervisors, by the supervisor of the town, to be audited with the charges of the commissioners, justices, surveyors, or other persons or officers employed in making the assessment, and for whose services the town shall be liable, and the amount shall be levied and collected in the town in which the highway is situated, and the money so collected shall be paid to the commissioners of highways of such town, who shall pay to the owner the sum assessed to him, and appropriate the residue to satisfy the charges aforesaid.

§ 94. **When officers of different towns disagree about highway.**—When the commissioners of highways of any town, or officers of any village or city having the powers of commissioners of highways, shall differ with the commissioners of highways of any other town, or with the officers of such a village or city having the powers of commissioners of highways in the same county, relating to the laying out of a new highway or altering an old highway extending into both towns, or a town and a village or city, or when commissioners of highways of a town in one county, shall differ with the commissioners of highways of a town, or the officers of a village or city having the powers of commissioners of highways, in another county, relating to the laying out of a new highway, or the alteration of an old highway, which shall extend into both counties, the

commissioners of highways of both towns, or the officers of the village or city having such powers, shall meet on five days written notice, specifying the time and place, within some one of such towns, villages, or cities, given by either of such commissioners or officers having powers of commissioners of highways, to make their determination in writing, upon the subject of their differences. If they can not agree, they or either of them may certify the fact of their disagreement to the county court of the county, if the proposed highway is all in one county, or if in different counties, or if the county judge is disqualified or unable to act, to the supreme court; such court shall thereupon appoint three commissioners, freeholders of the county, not residents of the same town, village or city where the highway is located; or if between two counties, then freeholders of another county, who shall take the constitutional oath of office, and upon due notice to all persons interested, view the proposed highway, or proposed alteration of a highway, administer all necessary oaths, and take such evidence as they shall deem proper, and shall decide (subject to the approval of the court, as hereinafter provided) all questions that shall arise on the hearing, as to the laying out or altering of such highway, its location, width, grade and character of road-bed, or any point that may arise relating thereto; and if they decide to open or alter such highway, they shall ascertain and appraise the damages, if any, to the individual owners and occupants of the land through which such new or altered highway is proposed to pass, and shall report such evidence and decision to such court, with their assessment of damages, if any, with all convenient speed. On the coming in of such report, the court may, by order, confirm, modify or set aside the report in whole or in part, and may order a new appraisal by the same or other commissioners, and shall decide all questions that may arise before it. And all orders and decisions in the matter shall be filed in the county clerk's office of each county where the highway is located, and shall be duly recorded therein.

§ 95. **Difference about improvements.**—When the commissioners of highways of a town, or the officers of a village or city having the powers of commissioners of highways therein, shall desire to make a new or altered highway extending beyond the bounds of such town, village or city, a better highway than is usually made for a common highway, with a special grade or road-bed, drainage or improved plan, and are willing to bear the whole or a part of the expense thereof beyond such bounds, but can not agree in regard to the same, upon

written application of either of the commissioners or officers, and notice to all parties interested, such court shall make an equitable adjustment of the matters, and may direct, that in consideration of the payment of such portion of the additional expense by the town, village or city that desires the improved and better highway, as shall be equitable, its officers, contractors, servants and agents may go into such town, village or city, and make the grade and road-bed, and do whatever may be necessary and proper for the completion of such better highway, advancing the money to do it; the amount of damages to each owner or occupant, shall be ascertained and determined by commissioners, who shall be appointed, and whose proceedings shall be conducted in the manner provided by the last preceding section; and upon the coming in of their report of damages, and of the expenses paid, such court shall, on notice to all parties interested, direct that the amount of damages assessed to each owner or occupant, if any, and all such expenses be paid by each, any or all of such towns, villages or cities as shall be just and equitable, and the damages and expenses assessed and allowed, as in this and the last preceding sections, shall be paid and collected as if fixed by the commissioners of highways of the towns, or the officers of such villages or cities having the powers of such commissioners. Every commissioner appointed as herein provided, shall be paid six dollars for each day actually and necessarily employed in such service and necessary expenses.

§ 96. Highway in two or more towns.—When application is made to lay out, alter or discontinue a highway located in two or more towns, all notices or proceedings required to be served upon the commissioners of highways, shall be served upon the commissioners of highways of each town; and the commissioners appointed by the court, shall determine the amount of damages to be paid by each town, and when the towns are in different counties, the application for the appointment of commissioners shall be made to a special term of the supreme court held in the district where the highway or some part of it is located; and the same proceedings shall thereafter be had in the supreme court of such district as are authorized by this chapter to be had in the county court.

§ 97. Laying out, dividing and maintaining highway upon town line.—An application to lay out a highway upon the line between two or more towns shall be made to the commissioners of highways of each town, who shall act together in the matter; and, upon laying out any such highway, they shall divide into two or more highway districts, in such manner that the labor and expense of opening, working and keeping the same in repair through each of such districts may be equal, as near as may be, and to allot an equal number of the districts to each of the towns; each district shall be considered as wholly belonging to the town to which it shall be allotted, for the purpose of opening and improving the highway and for keeping it in repair; and the commissioners of highways shall cause the highway and the

partition and allotment thereof to be recorded in the office of the town clerk in each of the respective towns. If such highway be upon a line between one or more towns and a city or incorporated village, such application shall also be made to the officers of such city or village having the powers of commissioners of highways, and such officers may agree with the highway commissioners of such towns as to the division of the labor and expense of opening, working and maintaining such highway. Whenever such officers shall disagree as to such division, application may be made for the appointment of commissioners, and the same procedure shall be had as is prescribed in this article for the settlement of disagreements between the highway officers of different towns. All highways heretofore laid out upon the line between any two towns or between a town and a city or an incorporated village shall be divided and allotted or redivided, and re-allotted, recorded and kept in repair, in the manner above directed.

Am'd by chap. 727 of 1894 and by chap. 181 of 1895. Took effect March 29, 1895.

§ 98. Final determination, how carried out.—The final determination of commissioners appointed by any court, relating to the laying out, altering or discontinuing a highway, and all orders and other papers filed or entered in the proceedings, or certified copies thereof from the court where such determination, order and papers are filed and entered, shall be forthwith filed and recorded in the town clerk's office of the town where the highway is located; and every such decision shall be carried out by the commissioners of highways of the town, the same as if they had made an order to that effect.

§ 99. Highways abandoned.—Every highway that shall not have been opened and worked within six years from the time it shall have been dedicated to the use of the public, or laid out, shall cease to be a highway; but the period during which any action or proceeding shall have been, or shall be pending in regard to any such highway, shall form no part of such six years; and every highway that shall not have been traveled or used as a highway for six years, shall cease to be a highway. The commissioners of highways shall file, and cause to be recorded in the town clerk's office of the town, written description, signed by them, of each highway so abandoned, and the same shall thereupon be discontinued.

§ 100. Highways by use.—All lands which shall have been used by the public as a highway for the period of twenty years or more, shall be a highway, with the same force and effect as if it had been duly laid out and recorded as a highway, and the commissioners of highways shall order the overseers of highways to open all such highways to the width of at least two rods.

§ 101. Fences to be removed.—Whenever a highway shall have been laid out through any inclosed, cultivated or improved lands, in conformity to the provisions of this chapter, the commissioners of highways shall give to the owner or occupant of the land through which such highway shall have been laid, sixty days notice in writing to remove his fences; if such owner shall not remove his fences

within the sixty days, the commissioners shall cause them to be removed, and shall direct the highway to be opened and worked.

§ 102. **Penalty for falling trees.**—If any person shall cut down any tree on land not occupied by him, so that it shall fall into any highway, river or stream, unless by the order and consent of the occupant, the person so offending shall forfeit to such occupant, the sum of one dollar for every tree so fallen, and the like sum for every day the same shall remain in the highway, river or stream.

§ 103. **Fallen trees to be removed.**—If any tree shall fall, or be fallen by any person from any inclosed land into any highway, any person may give notice to the occupant of the land from which the tree shall have fallen, to remove the same within two days; if such tree shall not be removed within that time, but shall continue in the highway, the occupant of the land shall forfeit the sum of fifty cents for every day thereafter, until the tree shall be removed.

§ 104. **Penalty for obstruction or encroachment.**—Whoever shall obstruct or encroach upon any highway, or shall unlawfully fill up or place any obstruction in any ditch for draining the water from any highway, shall forfeit for every such offense the sum of five dollars.

§ 105. **How removed and liability for not removing.**—The commissioners of highways shall serve upon the owner or occupant of lands adjoining that part of a highway within their town, in which any obstruction or encroachment may exist, a notice specifying the extent and location of such obstruction or encroachment, and directing such owner or occupant to remove the same within a specified time, not more than sixty days after the service of the notice. If such owner or occupant shall neglect or refuse to remove such obstruction or encroachment within such time, he shall forfeit to the town the sum of twenty-five dollars; and the commissioners may remove such obstructions or encroachments at the expense of the town, which may be recovered by action, of such owner or occupant; or the said commissioners may bring an action in any court of competent jurisdiction, to compel such owner or occupant to remove such obstruction or encroachment. Actions by commissioners of highways, as in this section provided, shall be in the name of the town.

§ 106. **Private road.**—An application for a private road shall be made in writing to the commissioners of highways of the town in which it is to be located, specifying its width and location, course

and distances, and the names of the owners and occupants of the land through which it is proposed be laid out.

(R. S., pp. 1379, 1383; post, pp. 882-893.)

§ 107. Jury to determine necessity and assess damages.

—One or more of the commissioners to whom the application shall be made, shall appoint as early a day as the convenience of the parties interested will allow, when, at a place designated in the town, a jury will be selected for the purpose of determining upon the necessity of such road, and to assess the damages by reason of the opening thereof.

§ 108. Copy application and notice delivered to applicant.

Such commissioners shall deliver to the applicant a copy of the application to which shall be added a notice of the time and place appointed for the selection of the jury, addressed to the owners and occupants of the land.

§ 109. Copy and notice to be served.—The applicant on receiving the copy and notice shall, on the same day, or the next day thereafter, excluding Sunday and holidays, cause such copy and notice to be served upon the persons to whom it is addressed, by delivering to each of them who reside in the same town a copy thereof, or in case of his absence, by leaving the same at his residence, and upon such as reside elsewhere, by depositing in the post-office a copy thereof to each, properly inclosed in an envelope, addressed to them respectively at their post-office address, and paying the postage thereon, or, in case of infant owners, by like service upon their parent or guardian.

§ 110. List of jurors.—At such time and place, on due proof of the service of the notice, one or more of the commissioners shall present a list of the names of eighteen resident freeholders of the town, in no wise of kin to the applicant, owner or occupant, or either of them, and not interested in such lands.

§ 111. Names struck off.—The owners or occupants of the land, may strike from the list not more than six names, and the applicant a like number; and of the number which remain, the six names standing first upon the list shall be the jury.

§ 112. Place of meeting.—The commissioner or commissioners present, shall then appoint some convenient time and place for the jury to meet, and shall summon them accordingly.

§ 113. Jury to determine and assess damages.—At least one commissioner and all the persons named and summoned on such

* So 'n the original.

jury, shall meet at the time and place appointed; but if one or more of the six jurors shall not appear, the commissioner or commissioners present shall summon so many qualified to serve as such jurors as will be sufficient to make the number present six, to forthwith appear and act as such; and when six shall have so appeared, they shall constitute the jury, and shall be sworn well and truly to determine as to the necessity of the road, and to assess the damages by reason of the opening thereof.

§ 114. **Their verdict.**—The jury shall view the premises, hear the allegations of the parties, and such witnesses as they may produce, and if they shall determine that the proposed road is necessary, they shall assess the damages to the person or persons through whose land it is to pass, and deliver their verdict in writing to the commissioners.

§ 115. **Value of highway discontinued.**—If the necessity of such private road has been occasioned by the alteration or discontinuance of a public highway running through the lands belonging to a person through whose lands the private road is proposed to be opened, the jury shall take into consideration the value of the highway so discontinued, and the benefit resulting to the person by reason of such discontinuance, and shall deduct the same from the damages assessed for the opening and laying out of such private road.

§ 116. **Papers to be recorded in the town clerk's office.**—The commissioners shall annex to such verdict the application, and their certificate that the road is laid out, and the same shall be filed and recorded in the town clerk's office.

§ 117. **Damages to be paid before opening the road.**—The damages assessed by the jury shall be paid by the party for whose benefit the road is laid out, before the road is opened or used; but if the jury shall certify that the necessity of such private road is occasioned by the alteration or discontinuance of a public highway, such damages shall be paid by the town, and refunded to the applicant.

§ 118. **Fees of officers.**—Every juror, in proceedings for a private road, shall be entitled to receive for his services one dollar and fifty cents; and commissioners, of highways, their per diem compensation, to be paid by the applicant.

§ 119. **Motion to confirm, vacate or modify.**—Within ten days after the decision of the jury shall have been filed in the town clerk's office, the owner or occupant may apply to the court of the county wherein such private road is situated, for a

confirming, vacating or modifying their decision; and such court may confirm, vacate or modify such decision as it shall deem just and legal. If the decision is vacated, the court may order another hearing of the matter before another jury, and remit the proceeding to the commissioners of highways of the same town for that purpose. If no such motion is made, the decision of the jury shall be deemed final. The motion shall be brought on, upon the service of papers on the adverse party in the proceeding, according to the usual practice of the court in actions and special proceedings pending therein, and the decision of the county court shall be final, except that a new hearing may be had, as herein provided. If the final decision shall be adverse to the applicant, no other application for the same road shall be made within two years.

§ 120. **Costs of new hearing.**—If upon a new hearing, the damages assessed are increased, the applicant shall pay the costs and expenses thereof, otherwise the owner shall pay the same.

§ 121. **For what purpose private road to be used.**—Every such private road when so laid out, shall be for the use of such applicant, his heirs and assigns; but not to be converted to any other use or purpose than that of a road; nor shall the occupant or owner of the land through which said road shall be laid out, be permitted to use the same as a road, unless he shall have signified such intention to the jury who assessed the damages for laying out such road, and before such damages were assessed.

§ 122. **Highways or roads along division lines.**—Whenever a highway or private road shall be laid along the division line between lands of two or more persons, and wholly upon one side of the line, and the land upon both sides is cultivated or improved, the persons owning or occupying the lands adjoining such highway or road, shall be paid for building and maintaining such additional fence as they may be required to build or maintain, by reason of the laying out and opening such highway or road; which damages shall be ascertained and determined in the same manner that other damages are ascertained and determined in the laying out of highways or private roads.

§ 123. **Adjournments.**—If any accident shall prevent any of the proceedings required by this chapter relating to the laying out, altering or discontinuing of a highway, or the laying out a private road, to be done on the day assigned, the proceedings may be adjourned to some other day, and the commissioner shall publicly announce such adjournment.

ARTICLE V.

BRIDGES.

SECTION 130. When town or county expense.

- 131. Additional county aid.
- 132. Statement of expenses.
- 133. Supervisors to levy tax.
- 134. Joint liability of towns, and their joint contracts.
- 135. Refusal to repair.
- 136. Proceedings in court.
- 137. Commissioners to institute proceedings.
- 138. Their duty.
- 139. Commissioners to report.
- 140. Appeals.
- 141. Power of court on appeal.
- 142. Refusal to repair bridge.
- 143. Penalty, and notice on bridge.
- 144. Offense.
- 145. Iron bridges.

SECTION 130. When town or county expense.—The towns of this State, except as otherwise herein provided, shall be liable to pay the expenses for the construction and repair of its public free bridges constructed over streams or other waters within their bounds, and their just and equitable share of such expenses when so constructed over streams or other waters upon their boundaries, except between the counties of Westchester and New York; and when such bridges are constructed over streams or other waters forming the boundary line of towns, either in the same or adjoining counties, such towns shall be jointly liable to pay such expenses. Each of the counties of this State shall also be liable to pay for the construction, care, maintenance, preservation and repair of public bridges, lawfully constructed over streams or other waters forming its boundary line, not less than one-sixth part of the expenses of such construction, care, maintenance, preservation and repair.

Am'd by chap. 416 of 1895. Took effect April 26, 1895.

[§ 131. Repealed by the county law, L. 1892, chap. 686.]

§ 132. Statement of expenses.—The commissioners of highways of every town in which the whole or any part of any free

bridge may be, shall make and deliver to the supervisor of the town, on or before the first day of November in each year, a written statement, verified by one of them, containing a description of such bridge, the whole expense in items incurred by the town during the year preceding for its construction or repair.

§ 133. **Supervisors to levy tax.**—Every supervisor to whom such statement is delivered shall present the same to the board of supervisors of his county at its next annual session thereafter, and the board of supervisors shall levy upon the taxable property of the county a sum sufficient to pay its proportion of such expense and the same when collected shall be paid to the commissioners of highways of such town to be applied toward the payment of such expense.

§ 134. **Joint liabilities of towns, and their joint contracts.**—Whenever any two or more towns shall be liable to make or maintain any bridge or bridges, the same shall be built and maintained at the joint expense of such towns, without reference to town lines. The commissioners of highways of all the towns, or of one or more of such towns, the other refusing to act, may enter into a joint contract for making and repairing such bridges.

§ 135. **Refusal to repair.**—If the commissioners of highways of either of such towns, after notice in writing from the commissioners of highways of any other of such towns, shall not within twenty days give their consent in writing to build or repair any such bridge, and shall not within a reasonable time thereafter do the same, the commissioners of highways giving such notice may make or repair such bridge, and then maintain an action in the name of the town, against the town whose commissioners neglect or refuse to join in such making or repairing, and in such action, the plaintiffs shall be entitled to recover so much from the defendant, as the town would be liable to contribute to the same, together with costs and interest.

§ 136. **Proceedings in court.**—Whenever any adjoining towns shall be liable to make or maintain any bridge over any streams dividing such towns, whether in the same or different counties, three freeholders in either of such towns may, by petition signed by them, apply to the commissioners of highways in each of such towns, to build, rebuild or repair such bridge, and if such commissioners refuse to build, rebuild or repair such bridge within a reasonable time, either for want of funds or any other cause, such freeholders, upon affidavit and notice of motion, a copy of which shall be served on each of the commissioners, at least eight days before the hearing, may apply to the supreme court at a special term thereof, to be held in the judicial

district in which such bridge, or any part thereof, shall be located, for an order requiring such commissioners to build, rebuild or repair such bridge, and the court upon such motion may, in doubtful cases, refer the case to some disinterested person to ascertain the requisite facts in relation thereto, and to report the evidence thereof, to the court. Upon the coming in of the report, in case of such reference or upon or after the hearing of the motion, in case no such reference shall be ordered, the court shall make an order thereon as the justice of the case shall require. If the motion be granted in whole or in part, whereby funds shall be needed by the commissioners to carry the order into effect, such court shall specify the amount of money required for that purpose, and how much thereof shall be raised in each town.

§ 137. Commissioners to institute proceedings.—The commissioners of highways of any such town, may institute and prosecute proceedings under this chapter, in the name of the town, to compel the commissioners of such adjoining towns, to join in the building, rebuilding or repairing of any such bridge, in like manner as freeholders are hereby authorized.

§ 138. Their duty.—The order for building, rebuilding or repairing a bridge being made, and a copy thereof being served on the commissioners of highways of such adjoining towns respectively, the commissioners of highways of such towns shall forthwith meet and fix on the plan of such bridge, or the manner of repairing the same, and shall cause such bridge to be built, rebuilt or repaired out of any funds in their hands applicable thereto; and if an adequate amount of funds are on hand, they shall cause the same to be built, rebuilt or repaired upon credit, or in part for cash and in part upon credit, according to the exigency of the case; and the commissioners may enter into a contract for building, rebuilding or repairing such bridge, pledging the credit of each town for the payment of its appropriate share, so far as the same shall be upon credit.

§ 139. Commissioners to report.—The commissioners of highways of each town, shall make a full report of their proceedings in the premises to the town board, at the time of making their annual report. They shall attach to the copy of the order granted by the supreme court, an accurate account under oath, of what has been done in the premises, and deliver the same to the supervisor of their town. The board of supervisors at their annual meeting, shall levy a tax upon each of such towns, when in the same county, and upon the appropriate town when in different counties, for its share of the

costs of building, rebuilding or repairing such bridge, after deducting all payments actually made by the commissioners thereon; which tax, including prior payments, shall in no case exceed the amount specified in the order.

§ 140. **Appeals.**—Either party aggrieved by the granting or refusing to grant such order by the court at special term, may appeal from such decision to the general term of the supreme court for the review of the decision. The general term may alter, modify or reverse the order, with or without costs.

§ 141. **Power of court on appeal.**—The special term may grant or refuse costs as upon a motion, including also witnesses' fees, referees' fees and disbursements. The appeal provided for in the last preceding section, shall conform to the practice of the supreme court, in case of appeal from an order of a special term, to the general term.

§ 142. **Refusal to repair bridge.**—Whenever any such bridge shall have been or shall be so out of repair as to render it unsafe for travelers to pass over the same, or whenever any such bridge shall have fallen down, or been swept away by a freshet or otherwise, if the commissioners of highways of the adjoining towns, after reasonable notice of such condition of the bridge, have neglected or refused, or shall neglect or refuse to repair or rebuild it, then whatever funds have been or shall be necessarily or reasonably laid out or expended in repairing such bridge, or in rebuilding the same, by any person or corporation, shall be a charge on such adjoining towns, each being liable for its just proportion; and the person or corporation who has made such expenditure, or shall make such expenditures, may apply to the supreme court, at a special term, for an order requiring such towns severally to reimburse such expenditures, which application shall be made by serving papers upon the commissioners of highways of each of such towns at least eight days; and the court may grant an order requiring each of the adjoining towns to pay its just proportion of the expenditure, specifying the same; and the commissioners of highways in each of such towns shall forthwith serve a copy of such order upon the supervisor of each of their towns, who shall present the same to the board of supervisors, at their next annual meeting. The board of supervisors shall raise the amount charged upon each town by the order, and cause the same to be collected and paid to such persons or corporation as incurred the expenditure. The order shall be appealable.

§ 143. **Penalty, and notice on bridge.**—The commissioners of

highways may fix and prescribe a penalty, not less than one, nor more than five dollars, for riding or driving faster than a walk on any bridge in their town, whose chord is not less than twenty-five feet in length and put up and maintain in a conspicuous place at each end of the bridge, a notice in large characters, stating each penalty incurred.

§ 144. **Offense.**—Whoever shall ride or drive faster than a walk over any bridge, upon which notice shall have been placed, and shall then be, shall forfeit for every offense, the amount fixed by such commissioners, and specified in the notice.

§ 145. **Iron bridges.**—No town or its officers shall be compelled to accept or pay for an iron or steel bridge exceeding two hundred feet in length, or having a span or spans exceeding one hundred feet in length, constructed therein or upon its borders, until the state engineer and surveyor shall certify to the completion of the bridge, pursuant to the contract under which it shall have been constructed, with his approval of the manner of its construction and the material thereof; and all contracts made for the construction of any such bridge, shall be subject to the provisions of this section.

ARTICLE VI.

MISCELLANEOUS PROVISIONS.

SECTION 150. Papers, where filed.

- 151. When commissioners do not act.
- 152. Costs on motion.
- 153. Injuries to highways.
- 154. When town not liable for bridge breaking.
- 155. Steam traction engine on highway.
- 156. Trees, to whom they belong.
- 157. Carriages meeting to turn to the right.
- 158. Intemperate drivers.
- 159. Drivers, when to be discharged.
- 160. Leaving horses without being tied.
- 161. Owners of certain carriages liable for acts of drivers.
- 162. Term "carriage" defined.
- 163. Entitled to free use of highways.
- 164. Penalties, how recovered.
- *165. Extent of this chapter.*

SECTION 150. **Papers, where filed.**—All applications, certificates, appointments and other papers relating to the laying out, altering or discontinuing of any highway shall be filed by the com-

* So in the original.

missioners of highways as soon as a decision shall have been made thereon in the town clerk's office of their town.

§ 151. **When commissioners do not act.**—When any commissioner or other officer appointed by a court under this chapter shall neglect or be prevented from serving, the court which appointed him shall appoint another in his place.

§ 152. **Costs on motion.**—Costs of a motion to confirm, vacate or modify the report of commissioners appointed by the court to lay out, alter or discontinue a highway may be allowed in the discretion of the court not exceeding fifty dollars. Costs of any other motion in a proceeding in a court of record, authorized by this chapter, may be allowed in the discretion of the court not exceeding ten dollars.

§ 153. **Injuries to highways.**—Whoever shall injure any highway or bridge maintained at the public expense, by obstructing or diverting any creek, water-course or sluice, or by dragging logs or timber on its surface, or by any other act, or shall injure, deface or destroy any mile-stone or guide-post erected on any highway, shall for every such offense, forfeit treble damages.

§ 154. **When town not liable for bridge breaking.**—No town shall be liable for any damage resulting to person or property, by reason of the breaking of any bridge, by transportation on the same, of any vehicle or load, together weighing four tons or over; but any owner of such vehicle or load, or other person engaged in transporting or driving the same over any bridge, shall be liable for all damages resulting therefrom.

§ 155. **Steam traction engines on highway.**—The owner of a carriage, vehicle or engine, propelled by steam, his servant or agent, shall not allow, permit or use the same to pass over, through or upon any public highway or street, except upon railroad tracks, unless such owners, or their agents or servants, shall send before the same, a person of mature age, at least one-eighth of a mile in advance, who shall notify, and warn persons traveling or using such highway or street, with horses or other domestic animals, of the approach of such carriage, vehicle or engine; and at night such person shall carry a red light, except in incorporated villages and cities.

§ 156. **Trees, to whom they belong.**—All trees standing or lying on any land over which any highway shall be laid out, shall be for the proper use of the owner or occupant of such land, except such of them as may be requisite to make or repair the highway or bridges on the same land.

§ 157 **Carriages meeting to turn to the right.**—Whenever any persons traveling with any carriages, shall meet on any turnpike road or highway, the persons so meeting shall seasonably turn their carriages to the right of the center of the road, so as to permit such carriages to pass without interference or interruption, under the penalty of five dollars for every neglect or offense, to be recovered by the party injured.

§ 158. **Intemperate drivers not to be engaged.**—No person owning any carriage for the conveyance of passengers, running or traveling upon any highway or road, shall employ, or continue in employment, any person to drive such carriage, who is addicted to drunkenness, or to the excessive use of spirituous liquor; and if any such owner shall violate the provisions of this section, he shall forfeit at the rate of five dollars per day, for all the time during which he shall have kept any such driver in his employment.

§ 159. **Drivers, when to be discharged.**—If any driver, while actually employed in driving any such carriage, shall be guilty of intoxication, to such a degree as to endanger the safety of the passengers in the carriage, the owner of such carriage shall, on receiving written notice of the fact, signed by any one of said passengers, and certified by him on oath, forthwith discharge such driver from his employment; and every such owner, who shall retain, or have in his service within six months after the receipt of such notice, any driver who shall have been so intoxicated, shall forfeit at the rate of five dollars per day, for all the time during which he shall keep any such driver in his employment after receiving such notice.

§ 160. **Leaving horses without being tied.**—No driver of any carriage used for the purpose of conveying passengers for hire, shall leave the horses attached thereto, while passengers remain in the same, without first making such horses fast with a sufficient halter, rope or chain, or by placing the lines in the hands of some other person, so as to prevent their running; and if any such driver shall offend against the provisions of this section, he shall forfeit the sum of twenty dollars.

§ 161. **Owners of certain carriages liable for acts of drivers.**—The owners of every carriage running or traveling upon any turnpike road or highway, for the conveyance of passengers, shall be liable jointly and severally, to the party injured, for all injuries and damages done by any person in the employment of such owners, as a driver, while driving such carriage, whether the accident* occasion-

* So in the original

ing such injury or damage be willful or negligent, or otherwise, in the same manner as such driver would be liable.

§ 162. **Term "carriages" defined.**—The term "carriage," as used in this article, shall be construed to include stage-coaches, wagons, carts, sleighs, sleds and every other carriage or vehicle used for the transportation of persons and goods, or either of them, and bicycles, tricycles and all other vehicles propelled by manumotive or pedomotive power.

§ 163. **Entitled to free use of highways.**—The commissioners, trustees, or other authorities having charge or control of any highway, public street, parkway, driveway or place, shall have no power or authority to pass, enforce, or maintain any ordinance, rule or regulation, by which any person using a bicycle or tricycle, shall be excluded or prohibited from the free use of any highway, public street, avenue, roadway, driveway, parkway or place, at any time when the same is open to the free use of persons having and using other pleasure carriages; but nothing herein, shall prevent the passage, enforcement, or maintenance of any regulation, ordinance or rule, regulating the use of bicycles or tricycles in highways, public streets, driveways, parkways and places, in such manner as to limit and determine the proper rate of speed with which such vehicles may be propelled, nor in such manner as to require, direct or prohibit the use of bells, lamps and other appurtenances, nor to prohibit the use of any vehicle upon that part of the highway, street or parkway, commonly known as the foot-path or sidewalk.

§ 164. **Penalties, how recovered.**—All penalties or forfeitures given in this chapter, and not otherwise specially provided for, shall be recovered by the commissioners of highways, in the name of the town in which the offense shall be committed; and when recovered, shall be applied by them in improving the highways and bridges in such town.

ARTICLE VII.

REGULATION OF FERRIES.

SECTION 170. Licenses.

171. Undertaking.

172. Appendages for rope ferries.

173. Superintendent of public works may lease right of passage.

174. When schedule to be posted.

SECTION 170. Licenses.—The county court in each of the counties of this state, or the city court of a city, may grant licenses for

keeping ferries in their respective counties and cities, to such persons as the court may deem proper, for a term not exceeding five years. No license shall be granted to a person, other than the owner of the land through which that part of the highway adjoining to the ferry shall run, unless the owner is not a suitable person or shall neglect to apply after being served with eight days written notice from such other person of the time and place at which he will apply for such license, or having obtained such license, shall neglect to comply with the conditions of the license, or maintain the ferry. Every license shall be entered in the book of minutes of the court by the clerk; and a certified copy thereof shall be delivered to the person licensed. When the waters over which any ferry may be used, shall divide two counties or cities, or a county and city, a license obtained in either of the counties or cities shall be sufficient to authorize transportation of persons, goods, wares and merchandise, to and from either side of such waters.

§ 171. Undertaking.—Every person applying for such license shall, before the same is granted, execute and file with the clerk of the court his undertaking, with one or more sureties, approved by the court, to the effect that he will attend such ferry with sufficient and safe boats and other implements, and so many men to work the same as shall be necessary during the several hours in each day, and at such rates as the court shall direct.

§ 172. Appendages for rope ferries—Any person licensed to keep a ferry may, with the written consent of the commissioners of highways of the town where such ferry may be, erect and maintain within the limits of the highway, at such point as shall be designated in such consent, a post or posts, with all necessary braces and appendages, for a rope ferry.

§ 173. Superintendent of public works may lease right of passage.—The superintendent of public works may where ferries are now maintained at tide-water lease the right of passage for foot passengers across state lands adjoining tide water for a period not exceeding ten years, on such conditions as he may deem advantageous to the state.

§ 174. When schedules to be posted.—Every person licensed to operate or control any ferry in this state, or between this state and any other state, operating from or to a city of fifty thousand inhabitants or over, shall post in a conspicuous and accessible position outside and adjacent to each entrance to such ferry, and in at least

four accessible places, in plain view of the passengers upon each of the boats used on such ferry, a schedule plainly printed in the English language, of the rates of ferriage charged thereon, and authorized by law to be charged for ferriage over such ferry. If any such person shall fail to comply with the provisions of this section, or shall post a false schedule, he shall forfeit the sum of fifty dollars for each days neglect or refusal to post such schedule, or any of them, to be recovered by any person who shall sue therefor, in any court of competent jurisdiction.

ARTICLE VIII.

REPEALING AND OTHER CLAUSES.

SECTION 180. Laws repealed.

181. Saving clause.

182. Construction.

183. When to take effect Schedule.

SECTION 180. Laws repealed.—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed. Such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed.

§ 181. Saving clause.—The repeal of a law, or any part of it specified in the annexed schedule, shall not affect or impair any act done, or right accruing, accrued, or acquired, or penalty, forfeiture, or punishment incurred prior to the time when this act takes effect, under or by virtue of the laws so repealed, but the same may be asserted, enforced, prosecuted, or inflicted, as fully and to the same extent, as if such laws had not been repealed; and all actions or proceedings, civil or criminal, commenced under or by virtue of the laws so repealed and pending February twenty-eighth, eighteen hundred and ninety-one, may be prosecuted and defended to final effect in the same manner as they might under the laws then existing, unless it shall be otherwise specially provided by law.

§ 182. Construction.—The provisions of this chapter, so far as they are substantially the same as those laws existing on February twenty-eighth, eighteen hundred and ninety-one, shall be construed as a continuation of such laws, modified or amended, according to the language employed in this chapter, and not as new enactments; and references in laws not repealed to provisions of law incorporated

into this chapter and repealed, shall be construed as applying to the provisions so incorporated: Nothing in this chapter shall be construed to amend or repeal any provision of the Penal or Criminal Code.

§ 183. **When to take effect.**—This chapter shall take effect on the first day of March, eighteen hundred and ninety-one.

SCHEDULE OF LAWS REPEALED.

Revised Statutes..... Part I, chapter 16..... All.

Revised Statutes..... Part I, chapter 20, title 13. All.

LAWS OF	Chapter	Sections.
1832	107	All.
1833	149	All.
1832	274	All.
1834	267	All.
1835	154	All.
1836	122	All.
1837	431	All.
1840	300	All.
1841	225	All.
1845	180	5, 6, 7, 9, 12, 13, 14.
1847	455	3, 4, 5, 6, 7, 8, 9, 11, 12, 20, 21, 22, 23.
1853	63	All.
1853	135	All.
1853	174	All.
1855	255	All.
1857	383	All.
1857	491	All.
1857	615	1.
1857	639	All.
1858	51	All.
1858	103	All.
1860	61	All.
1860	468	All.
1861	30	All.
1861	311	All.
1862	243	All.
1863	93	All.
1863	444	All.
1864	395	All.
1865	442	All.
1865	522	7.
1866	180	All.

LAWS OF	Chapter	Sections.
1866.....	770.....	All.
1868.....	791.....	All.
1868.....	843.....	All.
1869.....	24.....	All.
1869.....	131.....	1.
1869.....	593.....	All.
1870.....	461.....	All.
1872.....	274.....	1.
1873.....	68.....	All.
1873.....	69.....	All.
1873.....	395.....	All.
1873.....	448.....	All.
1873.....	477.....	All.
1873.....	773.....	All.
1874.....	169.....	All.
1874.....	570.....	All.
1875.....	22.....	All.
1875.....	196.....	All.
1875.....	341.....	All.
1876.....	340.....	All.
1876.....	348.....	All.
1877.....	197.....	All.
1877.....	344.....	All.
1878.....	44.....	All.
1878.....	49.....	All.
1878.....	114.....	All.
1878.....	245.....	All.
1879.....	67.....	All.
1880.....	114.....	All.
1880.....	305.....	All.
1880.....	308.....	All.
1880.....	503.....	All.
1881.....	233.....	All.
1881.....	513.....	All.
1881.....	696.....	All.
1881.....	700.....	All.
1883.....	346.....	All.
1883.....	371.....	All.
1883.....	398.....	All.
1884.....	220.....	All.
1884.....	251.....	All.
1884.....	359.....	All.
1884.....	396.....	All.
1884.....	479.....	All.
1886.....	269.....	All.
1886.....	344.....	All.
1886.....	422.....	All.

LAWS OF	Chapter	Sections.
1886.....	452.....	All.
1887.....	471.....	All.
1887.....	526.....	All.
1887.....	704.....	All.
1888.....	240.....	All.
1888.....	260.....	All.
1889.....	120.....	All.
1889.....	146.....	All.
1889.....	259.....	All.

LAWS OF 1891, CHAP. 309.

AN ACT to authorize overseers of highways to acquire gravel for highway purposes.

APPROVED by the Governor May 4, 1891. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. The overseers of highways of any road district of the state, with the consent of the commissioners of highways of the town and the approval of the town board, shall have power to purchase of the owner of any gravel bed or pit within the town, gravel for the purpose of grading, repairing or otherwise improving the highways of the town at a price per cubic yard approved by said commissioners and town board. If such overseer cannot agree with any such owner for the purchase of such gravel, the overseer, with the consent of such commissioners and the approval of such town board, shall have power to acquire by condemnation the right to take and use such gravel, provided, no gravel shall be so condemned within one thousand feet of any house or barn, or taken from any lawn, orchard or vineyard, and to remove the same from such bed or pit for the purpose of grading, repairing or otherwise improving such highways, together with the right of way to and from such bed or pit, to be used for the purpose of such removal. The right to use such gravel or to take the same from any such bed or pit may be acquired under this section for two or more or all of the road districts of the town, in common; and if acquired for two or more or all of the districts, the commissioners of highways, with the approval of the town board, must make the purchase or acquire such right by condemnation. The amount agreed to be paid upon any such purchase, and the amount adjudged to be paid upon any such condemnation shall be paid by the districts in which such gravel shall be used, but the costs and expenses of the proceedings for the condemnation incurred by the overseer, shall be a charge upon the town, and shall be audited by the town board, and paid the same as other town charges.

§ 2. If the town shall abandon for the period of three years any right so acquired to use any gravel bed or pit or to take gravel therefrom, or if the overseer of highways of any such district wherein any such right shall have been so acquired, or the commissioners of highways of the town shall cease to use the same for the purposes for which it was acquired, the right of the town and of such overseer and commissioners thereto shall cease, and the ownership thereof shall revert to and become vested in the owner of such bed or pit at the time such right was acquired, or his heirs or assigns.

§ 3. This act shall take effect immediately.

LAWS OF 1891, CHAP. 310.

AN ACT to encourage and facilitate the draining of agricultural lands.

PASSED by the Governor May 4, 1891. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. Whenever any owner or owners of agricultural lands desire to drain the same, or to reclaim and secure for tillage or other farming purposes, any low, marshy, or wet lands, by draining the same, the said owner or as many owners of such land as may join for said purpose under any agreement, contract or writing entered into by them, may, with the consent and under the supervision of the commissioners of highways of any town wherein the said lands are located, lay out and construct the necessary drains or ditches for draining such lands, so as to connect with and flow into the drains, ditches or other water-courses along or across any public road or highway, or through or under any sluice, or under any bridge upon any public road, or highway, provided that the draining of any land in such manner shall not endanger any such road or highway, or impede travel thereon on account of overflow. In case any additional quantity of water thus emptied into the highway ditches or other course for carrying off water be in excess of their usual capacity, the commissioners of highways are hereby authorized to so enlarge, or cause to be enlarged, the said highway ditches or other courses that they can receive the waters thus drained into them, without damage, or danger of damage or obstruction to the highway.

§ 2. In case of any difference or disagreement arising over the laying out and construction of drains or ditches by the owners of adjoining lands, who have previously entered into an agreement for the drainage of any such lands possessed by them, as in the first section of this act mentioned, which agreement shall be in writing, the said owners

HIGHWAY LAWS.

may make in writing, in which all said owners interested shall unite, an application to the fence viewers of the town wherein the land to be drained is situated, to hear and determine the matters of difference between said owners, upon submission to said fence viewers, the said matters of difference, the same as touching any divisions of lands or farm lines for the building and maintaining of line fences, or any other matter which may now be by law submitted to said fence viewers. And the said fence viewers shall, before making their report, view the premises or lands included within the area of the proposed drainage, and give opportunity to any party interested to be heard. And any agreement made by any of said owners for said submission to the said fence viewers, shall be held and construed as legal and binding upon the parties thereto, as any contract or agreement made for any lawful purpose.

§ 3. The conclusions and findings of said fence viewers shall be in writing, one copy of which shall be delivered to the applicants in every such proceeding, and one copy shall be filed in the office of the town wherein the land proposed to be drained is located. The compensation or fees of said fence viewers in such proceedings, shall be the same as now allowed by law, in the case of establishing and maintaining line fences and shall be paid by the parties making the application hereinbefore mentioned.

§ 4. Where any water or drainage has been carried or directed by the owners of lands as in this act provided, across, through or under said land to a point of intersection with the natural flow, drainage or outlet of water, upon the surface, along or by the side of any lands adjoining, but not embraced within the portion or district of land so drained as by this act provided, the same shall not be deemed as a diversion of any drainage or flow of water from the lands included within the area so drained.

§ 5. It shall be the duty of the fence viewers to act when called upon, in the manner and for the purpose hereinbefore provided, and they shall meet and proceed upon any application made as provided, within ten days after receiving the same; and said application shall contain a particular statement of all the matters and things upon which their action is requested, within the meaning of this act, by the parties of said application, but no fence viewer who is an owner of any land or has any personal interest in any matter involved in the proceeding, shall be competent to act; and in case of such disqualification of any said officer, his place may be filled by any justice of the peace of the town who may not be for the same reason disqualified, and whom the persons uniting in the application for such proceeding as provided, may agree upon.

§ 6. This act shall take effect immediately.

LAWS OF 1893, CHAP. 419.

AN ACT to repeal chapter four hundred and ninety-three of the laws of eighteen hundred and ninety-two, entitled "An act to provide for the construction of highways and bridges upon highways, running through two or more towns in the same county," and continuing certain proceedings heretofore commenced under said act and authorizing the issue of bonds to pay certain portion of the costs of said proceedings.

APPROVED by the Governor April 18, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter four hundred and ninety-three of the laws of eighteen hundred and ninety-two, entitled "An act to provide for the construction of highways and bridges upon highways running through two or more towns in the same county," is hereby repealed, but nothing herein shall affect any proceedings heretofore commenced under said act where, prior to the first day of March, eighteen hundred and ninety-three, and the statement required by section four of said act of the cost of the construction of the bridges was presented to the board of supervisors of any county wherein said proceedings were instituted, and such proceedings shall continue until the completion thereof as in this act provided.

§ 2. The cost of the construction of any bridges provided in said act may be paid by levy upon the taxable property of said county in the taxes levied for any one year, or by the issuing of bonds for the cost and expense thereof as the board of supervisors of any county may determine. Such bonds shall be of such denomination, bear such interest and be payable at such time or times as the board of supervisors may determine.

§ 3. This act shall take effect immediately

LAWS OF 1893, CHAP. 607.

AN ACT to provide for the widening of highways.

APPROVED by the Governor May 5, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. When any part of a highway in any town of this state, not in an incorporated village or city, running between two or more villages or cities, has, because of the wearing away by a river or stream or any other natural cause, become narrower than the width re-

quired by statute, and is dangerous to the users of such highway, twelve or more resident taxpayers of such town may present a petition to the county court of the county within which such town is situated. The petition shall describe the part of the highway proposed to be widened and state that such highway has become lessened in width by the action of a river or stream or other cause, that it is dangerous to the traveling public, that the widening and improvement of such highway is necessary for the public convenience and welfare, that the highway is an important leading road between two or more cities or villages, that the cost of such widening and improvement would exceed the sum of two thousand five hundred dollars and would be too burdensome on the town or towns otherwise liable therefor. Such petition shall be verified by at least three of the petitioners. On receipt of the petition the county court shall forthwith appoint three commissioners who shall not be named by any person interested in the proceedings and who shall be taxpayers of such county, but who shall not reside in the town or towns in which the highway, proposed to be widened and improved, is situated.

§ 2. The commissioners shall take the constitutional oath of office and appoint a time and place for a meeting to hear all persons interested in the proposed widening of the highway. They shall personally examine the part of the highway proposed to be widened, hear any reasons for or against such widening and ascertain the probable cost of the work. They shall have power to issue subpoenas, administer oaths and examine witnesses; they shall keep the minutes of their proceedings and reduce to writing all oral evidence given before them. They shall make duplicate certificates of their decision, filing one in the town clerk's office of the town in which the said highway is located, and the other, with such minutes and evidence, in the county clerk's office of the county where the highway is located. Such commissioners shall have the same power as to the assessment of damages caused by the widening of such highway as commissioners appointed under article four of the highway law for the discontinuance, alteration or laying out of a highway, and as to such assessment the same proceedings may be had for the confirmation, vacating or modifying of such decision, as provided in and by said article four of said highway law. The commissioners shall receive a compensation of five dollars for each day necessarily spent in the performance of their duties under this act, and the amount so paid to the said commissioners shall be a charge upon the town or towns in which the highway, proposed to be widened as aforesaid is located.

§ 3. If a majority of the commissioners shall determine that the proposed widening of the highway is necessary and that the cost

HIGHWAY LAWS.

thereof would be too burdensome for the town, exceeding in probable cost two thousand five hundred dollars, they shall notify the board of supervisors of the county of such decision. The board of supervisors shall thereupon cause one-half of the amount of the estimated cost to be raised by the county and paid to the commissioners of highways of the town or towns in which that part of the highway proposed to be widened as aforesaid is located, and said commissioners of highways shall apply the sum so received by them towards the payment of the cost of such widening. The balance of the expense shall be raised in the manner provided by law, by the town or towns in which that part of the highway proposed to be widened as aforesaid is located.

§ 4. The said commissioners of highways shall construct such widening of the highway according to plans and specifications adopted by them and approved by the town board of their town. The bills and expenses incurred in such work shall be audited by the town board and paid by the commissioners of highways out of moneys raised for such purpose as provided in the preceding section.

§ 5. In case an action might lie in any court of this state against the commissioners of highways of any town to compel such commissioners to widen a part of a highway, the width of which has become less than that required by statute, or in case an action has been brought against such commissioners to compel them to widen a part of a highway, the width of which has become less than that required by statute, the presentation of a verified petition to the county court as provided for in section one of this act shall prevent the commencing of any such action as aforesaid and cause such an action already commenced to cease, and shall be a bar to a recovery on the part of the plaintiff of a judgment against such commissioners of highways in any such action instituted or prosecuted to judgment after the passage of this act.

§ 6. This act shall take effect immediately.

LAWS OF 1893, CHAP. 655.

AN ACT in relation to the publication and distribution of the highway law.

APPROVED by the Governor May 9, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly do enact as follows:

SECTION 1. The governor shall designate some proper person to prepare and publish on or before July one, eighteen hundred and ninety-three, a compilation of the highway laws of this state, defining the

HIGHWAY LAWS.

powers and duties of highway officers and resident taxpayers. Such manual shall also contain diagrams and practical suggestions and directions for grading and building roads, maintaining and improving the same, and removing obstructions therefrom; and also practical suggestions in regard to tree culture, and the laying out of lawns along highways. The state engineer and surveyor shall cause to be prepared and furnished such maps, diagrams and other drawings as the governor shall require for such compilation. Such compilation shall not be published until approved by the governor.

§ 2. The person so designated to prepare and publish such compilation shall forward to each town clerk as many copies thereof as are required for distribution by this section. Each town clerk, immediately upon the receipt of such manuals, shall retain one for his office and distribute free of charge one copy to each commissioner of highways and overseer of highways in his town, and the cost thereof, which shall not exceed fifty cents per copy, shall be a town charge, and shall be audited and allowed as other town charges at the next meeting of the town board. Such manuals shall remain the property of the town, and upon the expiration of the term of office of each commissioner and overseer of highways shall be turned over by him to the town clerk, who shall deliver the same to the successors in office of such commissioners and overseers. The cost of such manuals to all other persons shall not exceed seventy-five cents a copy.

§ 3. Each supervisor shall, on or before March fifteen, eighteen hundred and ninety-four, pay to the person designated by the governor to compile such manual the amount due for the books forwarded to him. From the moneys so received, the compiler shall pay the cost of preparing and publishing such compilation.

§ 4. This act shall take effect immediately.

LAWS OF 1893, CHAP. 225.

AN ACT to authorize bridge companies to lay tracks and operate a railway upon any bridge connecting any city in the state of New York, of more than one million inhabitants, with any other city in said state.

APPROVED by the Governor March 27, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. Any company incorporated for the purpose of constructing and maintaining a bridge or bridges over any river, bay, arm of the sea or other body of water, connecting any city in the state of New York, containing more than one million inhabitants, with any other city in said state, is hereby empowered to lay tracks and operate a railway upon said bridge or bridges.

§ 2. This act shall take effect immediately.

LAWS OF 1893, CHAP. 363.

AN ACT declaring the Ausable river a public highway.

APPROVED by the Governor April 13, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. The Ausable river, including both the east and west branches thereof above the forks, is hereby declared to be, and is constituted a public highway for the purpose of floating logs, timber and lumber down the same.

§ 2. This act shall take effect immediately.

LAWS OF 1893, CHAP. 492.

AN ACT to amend chapter four hundred and forty-one of the laws of eighteen hundred and sixty-four, entitled "An act in relation to the performance of highway labor in Queens county."

APPROVED by the Governor April 29, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. Section two of chapter four hundred and forty-one of the laws of eighteen hundred and sixty-four, as amended by chapter

HIGHWAY LAWS.

sixty-eight of the laws of eighteen hundred and eighty-five, is hereby amended to read as follows :

§ 2. The commissioners named in the first section of this act shall, on or before the first day of May, in each year, report to the town assessors the whole number of days of highway labor that they have determined to require to be performed in said town for the ensuing year, and it shall be the duty of the assessors to assess upon the taxable inhabitants of said town and upon the property of non-residents situated in said town, and also upon the property of all incorporated or other companies liable to be taxed in said town, a sum that, in the aggregate, will equal in amount the sum that will be produced by allowing sixty cents for each day's work required to be performed in said town; and the same shall be assessed, levied and collected in the same manner and in the same proportions as other town assessments. The highway commissioners of the several towns of the county of Queens shall be entitled to compensation at the rate of three dollars for each day actually and necessarily devoted by them to the service of the town in the performance of the duties of their offices. In the town of Newtown a sum not to exceed ten thousand dollars for all purposes of improving the highways in said town shall be so assessed, levied and collected. A sum not to exceed four thousand dollars, part thereof, shall be apportioned toward the improving of the stone or macadamized roads of said town.

§ 2. This act shall take effect immediately.

LAWS OF 1894, CHAP. 176.

AN ACT declaring Bonaparte's creek a public highway, and providing means for the assessment of damages to riparian owners thereon.

BECAME a law March 27, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Bonaparte's creek, in the town of Diana, county of Lewis, from Lake Bonaparte to the junction of said creek with Indian river, in said town, is hereby declared to be and is constituted a public highway, for the purpose of floating logs, timber and lumber down the same.

§ 2. Any person desiring to use said stream as a public highway, may apply to a special term of the supreme court, for the appointment of three commissioners to appraise the damages of the riparian owners on said stream, on eight days' notice to and on service of a copy of the application to said supreme court, on said owners, and notice when and where the same will be presented. The said commissioners shall take the constitutional oath of office; examine the premises affected, and hear such evidence as may be offered by the persons or corporations in interest, and report their findings to the supreme court for confirmation. Upon the confirmation of such report, the person desiring to use said stream for the purposes aforesaid, shall pay or tender to the persons or corporations to whom damages are awarded, the amounts awarded respectively, and shall also pay the expenses and fees of said commissioners, at the rate of three dollars per day, for the time actually employed.

§ 3. This act shall take effect immediately.

LAWS OF 1894, CHAP. 311.

AN ACT to authorize certain corporations to construct additional bridges across rivers forming a part of the boundary of this state.

BECAME a law April 18, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. If a domestic corporation has heretofore, in pursuance of express authority of a statute of this state, constructed and is now operating a bridge over a river which for its entire length forms a part of the boundary of this state, and if there be in such river a waterfall more than one hundred feet in height, and if the land of

such corporation adjoin a state reservation, such corporation is hereby authorized to establish, construct and maintain another bridge over such river, below such waterfall, at or near such present bridge and not more than five hundred feet northerly therefrom, and the necessary approaches, for the passage of pedestrians and vehicles; and such corporation may lay tracks upon such new bridge and its approaches for the passage of electric, cable or horse cars, and may operate street cars upon the same by electric, cable or horse power, or any other than locomotive steam power, for the conveyance of passengers and property for compensation. Such corporation shall have the power to lease the said bridge and its appurtenances or to enter into any contract or agreement with any person or corporation with reference to operating and using the same. Such corporation may acquire real property for such purposes by purchase or by condemnation, but this act shall not confer upon such corporation any power to infringe upon such state reservation. Such corporation shall not charge greater toll for the passage of pedestrians or passengers in cars or vehicles over such new bridge than it is authorized by law to charge for passage thereof over such existing bridge. Such corporation may, from time to time, increase the amount of its capital stock in the manner provided by the stock corporation law, notwithstanding the provisions of any general or special law heretofore passed limiting the amount thereof, but the amount of the capital stock shall not be increased beyond the total amount of three hundred and fifty thousand dollars.

§ 2. This act shall take effect immediately.

LAWS OF 1894, CHAP. 458.

AN ACT to provide for the construction of a highway on the Onondaga Indian reservation, and making an appropriation therefor.

BECAME a law May 3, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The sum of one thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the treasury not otherwise appropriated, payable by the treasurer upon the warrant of the comptroller, on vouchers duly verified, for the construction of a highway on the Onondaga Indian reservation in the town of Onondaga, Onondaga county, which road is laid out to run from a point known as Indian quarry on the state road in said town, in a southeasterly direction three hundred and forty rods, to a point known as McClary's Corners, and intersecting with the

HIGHWAY LAWS.

La Fayette road ; said highway so indicated and laid out being a continuation of the state road aforesaid. The work of constructing and improving the said road shall be done under the supervision and direction of the superintendent of public works.

§ 2. This act shall take effect immediately.

LAWS OF 1894, CHAP. 686.

AN ACT for the preservation of macadamized public highways in Queens county.

BECAME a law May 12, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. No street surface railroad or railroad of any kind shall be constructed upon any macadamized public highway in any town in Queens county without a vote of the majority of the electors of such town being cast in favor thereof at an annual town meeting. All ballots used at any election submitting to the electors of a town the question of constructing a street surface railroad or railroad of any kind upon a macadamized highway shall plainly designate the highway upon which it is proposed to construct such railroad. In no event shall any railroad be constructed upon any macadamized public highway in any town in Queens county other than on the sides thereof, and in such manner as not to interfere with the macadamized roadbed. The consent of the majority of the electors as herein provided shall be in addition to the requirements of the general railroad act of the state.

§ 2. No railroad shall be constructed on Broadway, Hillside, Highland or Shelton avenues in the said town of Jamaica.

§ 3. This act shall take effect immediately, and Queens county is hereby exempted from all acts and parts of acts inconsistent with the provisions of this act.

LAWS OF 1894, CHAP. 712.

AN ACT to amend chapter two hundred and seven of the laws of eighteen hundred and fifty-one, entitled "An act declaring Moose river, together with the north and south branches thereof, in the state of New York, a public highway, and regulating the passage of logs and timber down the same."

BECAME a law May 16, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Section 1. Section four of chapter two hundred and seven of the laws of eighteen hundred and fifty-one, entitled "An act declaring Moose river, together with the north and south branches thereof, in the state of New York, a public highway, and regulating the passage of logs and timber down the same," is hereby amended so as to read as follows:

§ 4. Persons desirous of floating logs or timber down the said stream may construct a chute or apron in connection with any dam across said stream, and may reconstruct any booms already constructed, or hereafter to be constructed in, over and across said stream, in such manner as to allow logs and timber to pass by the same, doing no unnecessary damage to the owner or occupants of said boom, and paying to such occupant or owner all damages that he or they may sustain by reason of the floating of logs and timber, or the alteration of dams or booms, said damages to be ascertained by three commissioners to be appointed by the supreme court, as provided for in the condemnation law, on the application of either party, and notice of ten days to the other party, unless the parties can agree; nor shall this act be construed to impair or abridge any private or individual rights in the construction of bridges, dams or booms across said river, except so far as is necessary for the improvement of said river and floating logs and timber down the same.

§ 2. This act shall take effect immediately.

LAWS OF 1895, CHAP. 499.

AN ACT to authorize certain town boards and commissioners of highways to expend a sum of money in addition to that authorized by the highway law, and to incur an indebtedness for the grading, macadamizing and improving of highways in said town.

BECAME a law May 2, 1895, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The commissioners of highways, and the town board of any town of one thousand or less inhabitants adjoining a city having not less than thirty-five thousand inhabitants, which shall have been authorized by a majority vote of electors in said town by ballot at the last annual election in said town to expend a sum not exceeding twenty thousand dollars, in addition to the sum authorized to be expended by section seven, article one, chapter nineteen of the general laws, known as the highway law, for the purpose of purchasing stone, and quarrying, breaking, crushing and spreading the same upon the highways in said town and defraying the expenses incidental thereto, are hereby authorized, jointly, to proceed with the said work so authorized by said vote.

§ 2. And the town board of any such town is hereby authorized to pledge the faith and credit of said town to the extent and amount of such bond or bonds, and the sum to bear interest at a rate not to exceed five per cent. per annum, to be for such amounts and upon such terms and conditions as may be determined by the said board. Said bonds, when issued, shall be binding on the town, and shall contain a recital that they are issued under the provisions of this act, and said recital shall be conclusive evidence in any court of the validity thereof, and of the regularity of their issue. But the said bonds shall be payable within twenty years from the date of their issuance. Each bond shall be signed by the supervisor of the said town and countersigned by the town clerk, and delivered to the supervisor of the said town, who shall advertise the same for sale at public auction to the highest bidder, after one publication at least in one of the newspapers published in the county seat of the county in which such town is situated, at least two weeks before the date of the sale. No such bond shall be sold for less than the par value thereof. All such bonds shall be numbered consecutively, and a record thereof kept of each by the town clerk and supervisor, showing the date, amount and date of maturity of each. All moneys to be derived from the sale of bonds shall be kept in a

separate fund by the supervisor, and all orders for the payment of such moneys shall be drawn only by the authority of the town board, signed by the supervisor of the town, and countersigned by the town clerk. Before the supervisor shall advertise any such bond, he shall execute to such town, and file with the town clerk a special bond, with sufficient sureties, to be approved as to its form and sufficiency, by a majority of the town board, exclusive of the said supervisor, conditioned for the faithful execution of his duties in reference to the sale of said bonds, and applications of the proceeds under the direction of the said town board. At any time, when in the opinion of a majority of the members of such town board the moneys entrusted to such person as supervisor shall be deemed unsafe, or the surety insufficient, they may require a new and further bond, with like conditions as the first, and in such penalty and with such sureties as they may deem requisite and proper. Should default be made in the giving and filing of the bond as herein provided for, within the time limited herein, or if the supervisor neglect to renew his bond as last hereinbefore provided for, the town clerk, at the request of the said board, shall cause a written notice to be served upon the person so in default, requiring him to furnish such bond, or such renewal, as the case may be, within ten days from the day of service of such notice.

§ 3. The work done on the roads and highways under and by virtue of the provisions of this act shall be awarded to the lowest responsible bidder, who shall furnish security satisfactory to the majority of the town board and highway commissioners of the town. The said highway commissioners and town board of such town are authorized and directed to advertise for any and all work done under the provisions of this act at least once a week for two weeks in a paper published in the county seat of the county in which such town is situated. Said advertisement for such work to be done shall contain a sufficient specification of the character and extent of the work to be done, and the places designated by a special town meeting in said town where the work is to be done.

§ 4. This act shall take effect immediately.

LAWS OF 1895, CHAP. 611.

AN ACT in relation to certain highways in towns which have expended three hundred thousand dollars or more for macadamizing purposes.

BECAME a law May 11, 1895, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. Whenever the commissioners of highways of any town, in which during the past five years there has been expended the sum of three hundred thousand dollars, or more, for the purpose of macadamizing the highways of such town, shall by a majority vote of such commissioners, determine that any portion of any highway or street, not within the limits of an incorporated village, which is the terminus of such street or highway, is unnecessary for highway purposes, the said commissioners may, by an order to be duly entered upon their minutes, order such highway to be discontinued and abandoned for public purposes. Provided, however, that no greater portion of such highway to be discontinued shall be more than five hundred feet of the terminus thereof, nor unless the consent of the owners of the land on both sides of such highway or street for the distance it is proposed to discontinue the same, shall, by written petition to such highway commissioners, request the discontinuance thereof.

§ 2. Immediately upon making and entering the order mentioned in the first section of this act, the said commissioners shall cause a written description of that portion of the street or highway ordered to be discontinued, to be filed and recorded in the office of the town clerk of the town in which the same said street or highway is located, and when the same is duly recorded, the said portion of the said street or highway shall thereupon be and become duly abandoned and discontinued for highway purposes.

§ 3. All acts and parts of acts inconsistent with this act, in so far as they are inconsistent, are hereby repealed.

§ 4. This act shall take effect immediately

LAWS OF 1895, CHAP. 717.

AN ACT to compel highway commissioners to file their contracts in certain cases.

BECAME a law May 28, 1895, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Within twenty days after the passage of this act, it shall be the duty of the highway commissioners in each of the several towns of this State which has adopted the money system of taxation for highway purposes to file with the town clerk of the town in which said commissioners reside all contracts made by such commissioners by and on behalf of such towns for the construction, care and maintenance of the public highways located therein.

§ 2. All commissioners of highways in towns wherein the money system of taxation has been adopted for highway purposes shall, within ten days after any such contracts have been made as specified in section one of this act, file the said contract with the town clerk of the town in which such highways are located.

§ 3. Any person offending against the provisions of this act is hereby declared to be guilty of a misdemeanor.

§ 4. This act shall take effect immediately.

FORMS FOR HIGHWAY LAW.

Form No. 1. Section 2.

UNDERTAKING OF THE TREASURER OF HIGHWAY COMMISSIONERS.

WHEREAS, The commissioners of highways of the town of, in the county of, have designated, one of their number, to be treasurer, pursuant to section 2 of the Highway Law; now, therefore, we, the said, and, as his surety, do hereby jointly and severally undertake to and with the said town that the said will faithfully account and pay over to any officer or person, entitled thereto, any money that may come into his hand as such treasurer.

Dated this ... day of, 18...

.....
.....

STATE OF NEW YORK, }
COUNTY OF, } ss..

On this day of, 18..., before me personally appeared the above-named and, to me personally known to be the same persons described in and who executed the foregoing undertaking, and severally acknowledged that they executed the same.

.....,
Justice of the Peace.

STATE OF NEW YORK, }
COUNTY OF, } ss.:

....., above named, being duly sworn, says that he is a resident of and a householder, or freeholder, within the State, and is worth dollars over and above all debts and liabilities which he owes or has incurred, and exclusive of property exempt by law from levy and sale under execution.

Subscribed and sworn to before me, }
this day of, 18... }

.....

.....,
Justice of the Peace.

APPROVAL.

I approve of the within (or foregoing) undertaking, and of the sufficiency of surety (or sureties) therein named.

Dated this day of, 18...

.....,
Supervisor of

(One surety is sufficient, if satisfactory to supervisor. If two or more execute the undertaking, the justification must be drawn accordingly, or a separate one for each surety.)

FORMS FOR HIGHWAY LAW.

Form No. 2. Section 4, Subd. 2.

ORDER ASCERTAINING AND DESCRIBING ROAD.

WHEREAS, A road, used as a highway, in the town of, county of, leading from to, was laid out by the commissioners of highways of said town, on the day of, 18...., but not sufficiently described (or has been used as a public highway for twenty years last past but not recorded); now, therefore, we, the undersigned commissioners of highways of said town, having met at the house of, in said town, for the purpose of causing said road to be ascertained, described and entered of record in the town clerk's office, — all the said commissioners being present, and having deliberated (or all the said commissioners having been duly notified to attend this meeting for the purpose of deliberating) on the subject embraced in this order, do hereby order that the said road be ascertained, described and entered of record. And the said commissioners having caused a survey of the said road to be made, do further order that said road is hereby ascertained and described according to the said survey, being as follows: beginning at (insert survey). And it is further ordered that the line above described be the *center* line of the said road, and that the said road be of the width of *three* rods.

In witness whereof, the said commissioners, have hereunto subscribed their names the day of, 18...

(Signatures.)

Form No. 3. Section 4, Subd. 3.

ORDER DIVIDING TOWN INTO ROAD DISTRICTS.

The undersigned, commissioners of highways of the town of, in the county of, having met and deliberated on the subject embraced in this order; all said commissioners being present, and having deliberated thereon (or all said commissioners having been duly notified to attend here for the purpose of deliberating thereon), do hereby order that the said town be and the same is hereby divided into *ten* road districts, as follows, to-wit: Road district No. 1 shall include all that part of said town lying between, etc.,; and all the inhabitants residing in said district, and liable to work on highways, shall be and are hereby assigned to work in said district No. 1. (If any out of said district be assigned to work therein, insert.) And the following inhabitants residing out of said district, are hereby assigned and required to work therein, to-wit:, etc. District No. 2, etc. (proceed in like manner till all are described).

In witness whereof, we have hereto subscribed our names this 10th day of July, 1865.

(Signatures.)

Form No. 4. Section 4, Subd. 3.

ANOTHER FORM FOR DIVISION OF TOWN INTO HIGHWAY DISTRICTS.

The undersigned, commissioners of highways of the town of, in the county of, hereby divide the highways of said town into districts as follows:

District No. 1 shall comprise (here insert the description thereof, and in like manner of all the other districts).

FORMS FOR HIGHWAY LAW.

And we hereby assign to each of said districts the inhabitants and corporations, respectively, residing or located therein and liable to work on highways. (Or if any person or corporation is assigned to a highway district of which he or it is not an inhabitant, or located, but is liable to be assessed for the highway labor therein, it must be so stated.)

Dated this day of, 18...

.....,
.....,
.....,
Commissioners of Highways.

Form No. 5. Section 4, Subd. 5.

APPOINTMENT OF OVERSEERS OF HIGHWAYS.

The undersigned, commissioners of highways of the town of, in the county of, hereby appoint the following residents of the respective districts to be overseers of the highways of said town for the ensuing year:

District No. 1.—

District No. 2.—

District No. 3.—

Dated this day of, 18...

.....,
.....,
.....,
Commissioners of Highways.

Form No. 6. Section 4, Subd 5.

NOTICE OF APPOINTMENT AS OVERSEER.

TOWN OF....., }
DATED... ..18.., } ss.:

To, Esq.:

You are hereby notified that you were this day, by the commissioners of highways of said town, appointed overseer of highways of road district No. ...

You will, therefore, deliver to the clerk of the town, within sixteen days after your appointment, a list, subscribed by you, of the names of all the inhabitants in your highway district who are liable to work on the highways.

Please sign and return the following acceptance.

Yours, etc.,

.....,
Town Clerk.

(By favor of Avery Herrick, Publisher and Printer, Albany, N. Y.)

FORMS FOR HIGHWAY LAW.

Form No. 7. Section 4, Subd. 5.

ACCEPTANCE.

To, Town Clerk, Town of

I hereby accept the office of overseer of highways in district No. to which I was appointed the day of, 18...

Dated this ... day of, 18...

(By favor of Avery Herrick, Publisher and Printer, Albany, N. Y.)

Form No. 8. Section 9.

NOTICE OF APPLICATION FOR ADDITIONAL APPROPRIATION.

Notice is hereby given to the electors of the town of, in the county of, that the commissioners of highways of said town are of the opinion that the sum of five hundred dollars, as now allowed by law, will be insufficient to pay the expenses actually necessary for the improvement of roads and bridges in said town, and that the additional sum of two hundred and fifty dollars is necessary to make a bridge across the creek, near (or to repair the bridge, etc., or to improve the road at, etc.). And that we, the undersigned, commissioners of highways of said town, shall, at the next annual town meeting of said town, to be held at on the day of March next, cause a vote to be taken by ballot authorizing the said sum of, to be raised for the purpose aforesaid. (Signed.)

Dated, etc.

Form No. 9. Section 10.

CONSENT OF TOWN BOARD.

COUNTY OF. } ss.:
TOWN OF. }

At a special meeting of the town board of said town, called by the supervisor (or town clerk) thereof, held on this ... day of, 18.., the following preamble and resolution was adopted:

WHEREAS, The highway (or bridge), known as (here describe it), was destroyed by (describe how), on, 18.. (or has become damaged), and there are not sufficient moneys in the hands of the commissioners of highways to rebuild (or repair) the same; therefore, be it

Resolved, That we do hereby consent that the commissioners of highways of the town of cause said highway (or bridge) to be immediately rebuilt (or repaired) according to law.

(Town board sign here.)

Form No. 10. Section 10.

TOWN CLERK'S CERTIFICATE TO TRANSCRIPT.

TOWN OF. } ss.:
OFFICE OF TOWN CLERK, }

I do hereby certify that I have compared the above transcript of the proceedings of the town board of said town, at a special meeting held on the day of

FORMS FOR HIGHWAY LAW.

....., 18.., with the original record thereof in my office, and that the same is a correct transcript therefrom, and of the whole of such original.

Dated this day of, 18...

.....,
Town Clerk.

Form No. 11. Section 11.

REQUEST FOR SPECIAL SESSION OF TOWN BOARD TO AUDIT EXPENSES.

To the Supervisor (or Town Clerk) of the Town of, in the County of.....:

The undersigned, commissioners of highways of said town, do hereby request that the town board be convened in special session, for the purpose of auditing the bills and expenses incurred in the erection (or repair) of the highway (or bridge) under the consent given by said board on the day of, 18...

Dated this day of, 18...

.....,
.....,
.....,
Commissioners of Highways.

Form No. 12. Section 11.

CERTIFICATE OF SUPERVISOR AND TOWN CLERK

COUNTY OF..... } ss.:
TOWN OF..... }

The undersigned, supervisor and town clerk of said town, do hereby certify that at a special session of the town board this day held, for the purpose of auditing and allowing the bills and expenses incurred in the erection or repairs of the highway (bridge) by the commissioners of highways of said town, under the consent given by said town board, on the day of, 18.., the following bills and accounts were audited and allowed with interest:

	IN WHOSE FAVOR.	Nature of work done and material furnished.	Amount allowed.

Dated this day of, 18...

.....,
Supervisor.

.....,
Town Clerk.

FORMS FOR HIGHWAY LAW.

Form No. 13. Section 12.

ACCOUNT WITH VERIFICATION, AND CERTIFICATE OF COMMISSIONERS OF HIGHWAYS.

The Town of , *to* , Dr.
 January, 18.., to (days' labor on) \$
 January, 18.., to (feet of plank)
 Total..... \$

COUNTY OF....., }
 TOWN OF....., } ss.:

....., being duly sworn, says he is the claimant in the above account, and that the items of said account are correct, and that the disbursements and services charged therein have been in fact made or rendered, or are necessary to be made or rendered at this session of the board, and that no part of the same has been paid or satisfied.

Subscribed and sworn to before me, }
 this day of, 18... }

.....,
Justice of the Peace.

COUNTY OF....., }
 TOWN OF....., } ss.:

The undersigned, commissioners of highways of said town, do hereby certify that in the foregoing account of the services mentioned were actually performed, and the material mentioned was actually furnished, and the same was so performed and furnished at their request.

Dated this day of, 18...

.....

Commissioners of Highways.

Form No. 14. Section 13.

COMPLAINT THAT TOLL-BRIDGE IS UNSAFE.

COUNTY OF....., }
 TOWN OF....., } ss.:

....., being duly sworn, complains on oath to the commissioners of highways of the town of in the county of, that he believes the toll-bridge belonging to, situated on the (give name of stream), at (describe place), has become and is unsafe for public use, and that the reasons for his belief are as follows: (set forth reasons).

Subscribed and sworn to before me, }
 this day of, 18... }

.....,
Justice of the Peace.

FORMS FOR HIGHWAY LAW.

Form No. 15. Section 13.

NOTICE TO OWNERS OF TOLL-BRIDGE.

To (owners or agent of the owners, acting as agent in respect to such bridge, as the case may be):

You are hereby notified that the commissioners of highways of the town of, in the county of, have, on complaint made, carefully and thoroughly examined the toll-bridge situated on the, at (describe the situation), and found it to be unsafe for public use. (State briefly wherein it is unsafe.)

Dated this day of, 18. .

.....,
.....,
.....,
Commissioners of Highways.

Form No. 16. Section 14.

APPLICATION TO LAY WATER-PIPES IN THE HIGHWAY.

To the Commissioners of Highways in the Town of, in the County of

The undersigned, a resident of the said town of, does hereby make application to you for permission to lay and maintain water-pipes and hydrants under ground, within the highways of said town, for the purpose of supplying his premises with water, pursuant to section 14 of the Highway Law, as follows: (Here describe where the pipes are proposed to be laid.)

Dated this day of, 18...

Form No. 17. Section 14.

PERMISSION TO LAY AND MAINTAIN WATER-PIPES IN HIGHWAY.

The undersigned, commissioners of highways of the town of, in the county of, on the written application of, do hereby grant permission to said to lay and maintain water-pipes and hydrants under ground within the highways of said town, for the purpose of supplying his premises with water, as follows: (Here describe where the pipes are to be laid.) But such pipes are not to be laid under the traveled portion of the highway, except to cross the same; and this permission is upon condition that such pipes and hydrants shall be so laid as not to interrupt or interfere with public travel upon the highway, and that the applicant shall replace all earth removed, and leave the highway in all respects in as good condition as before the laying of such pipes.

Dated this day of, 18...

.....,
.....,
.....,
Commissioners of Highways.

FORMS FOR HIGHWAY LAW.

Form No. 18. Section 16.

VERIFIED STATEMENT OF CAUSE OF ACTION.

To, *Supervisor of the Town of, in the County of.....*:

I claim a cause of action against the said town of, by reason of defects in the highway (or a bridge) in said town, and the following is a statement of such cause of action : (Here state cause of action as in a complaint in an action.)

Dated this day of, 18...

(Verification the same as to complaint in an action.)

Form No. 19. Section 19.

COMMISSIONERS' REPORT TO FIRST MEETING OF TOWN BOARD.

The undersigned, commissioners of highways of the town of, in the county of, hereby render to the town board of said town the following report:

1. The highway labor assessed in said town for the year ending on 18.., was days; and the highway labor performed in said town during the said year was days, as appears by the accounts rendered them by the several overseers of highways in said town.

2. The said commissioners have received during the said year the following sums of money for penalties, commutations, and from all other sources:

Date.	FROM WHOM RECEIVED.	On what account	Amount.

3. They have paid out during the said year, for which they have receipts in full, the following sums:

Date.	TO WHOM PAID.	On what account.	Amount.

FORMS FOR HIGHWAY LAW.

4. The improvements which have been made on the highways and bridges in said town during said year are as follows: (Specify improvements.) And the highways and bridges in said town are (specify the condition they are in).

Dated this day of, 18..

.....,
.....,
.....,

Commissioners of Highways.

Form No. 20. Section 19.

COMMISSIONERS' REPORT TO SECOND MEETING OF TOWN BOARD.

The undersigned, commissioners of highways of the town of, in the county of, hereby render to the town board of said town, the following report:

1. The following improvements are necessary to be made on the highways and bridges in said town during the next fiscal year, viz.: (Here specify the improvements deemed necessary.)

2. The probable expense of making such improvements beyond what the labor to be assessed will accomplish, is by us estimated at \$.....

Dated this day of, 18..

.....,
.....,
.....,

Commissioners of Highways.

Form No. 20a. Section 21.

NOTICE TO REMOVE OBSTRUCTIONS.

To, Overseer of Highway, District No....., of the Town of, in the County of

We, the undersigned inhabitants of said town, liable to payment of highway tax, hereby give notice that the highway in said district is obstructed by snow (or otherwise) at (describe where), and request that you forthwith proceed to remove said obstruction.

Dated this day of, 18...

.....
.....

Form No. 21. Section 23.

SECURITY TO BE GIVEN BY COMPLAINANT TO INDEMNIFY TOWN, ETC.

WHEREAS, complaint has been made by, a resident of the town of, that, overseer of highways of road district No, in said town (state ground of complaint); now, therefore, we,, principal, and, and, sureties, of the town of, in the county of, N. Y., do hereby, jointly and severally, undertake to and with the said town to indemnify said town and pay

the costs and expenses, if any, of the prosecution for such penalty incurred in an action brought in the name of the said town by said complainant.

(Acknowledgment and justification clauses, and approval by supervisor.)

COMPLAINT TO COMMISSIONER AGAINST OVERSEER.

The complaint of, a resident of the town of, respectfully sheweth that, the overseer of highways for road district No., in said town, has neglected and refused to warn to work on the highways in said district, after having been required so to do by the commissioners, or one of them. And the said hereby requires the said commissioners of highways to prosecute the said for said offense.

Form No. 23. Section 23.

WHEREAS, has made complaint to the commissioners of highways of the town of, that, overseer of highways for road district No., in said town, has neglected and refused to (insert matter complained of); now, therefore, we, and, of said town, do hereby undertake, pursuant to the statute in such case made and provided, that we will well and truly indemnify and save harmless, the said town of, against any costs which may be incurred in prosecuting for the penalty annexed to such refusal or neglect.

(Signed.)

(Acknowledgment and justification clauses and approval of supervisor.)

OVERSEER'S LIST OF PERSONS LIABLE TO HIGHWAY LABOR

I,, overseer of highway district No. ... , of the town of
....., do hereby certify that the following is a true and correct list of all
the inhabitants who are liable to work on the highways in said district.

NAMES.	NAMES.

Overseer of Highway District No.

FORMS FOR HIGHWAY LAW.

Form No. 25. Section 32.

COMMISSIONERS' LIST OF NON-RESIDENT LANDS.

The following is a list and statement of the contents of all lots, pieces or parcels of land within the town of, in the county of, owned by non-residents therein, made by the undersigned, commissioners of highways of said town :

NAME OF TRACT OR PATENT.	Number lot.	Part.	Number section.	Township.	Number range.	Number acres.	Valuation.

Dated this day of, 18... ..

Commissioners of Highways.

Form No. 26. Section 32.

ANOTHER FORM FOR LIST AND STATEMENT OF NON-RESIDENT LANDS BY COMMISSIONERS.

The commissioners of highways of the town of, at a meeting of which due notice was given to all the commissioners of highways of said town, and held on the day of, in the year 18..., have made out the following list and statement of the contents of all lots, pieces or parcels of land within said town of, owned by non-residents therein, through which any road in said town doth run, or which bound upon or joins any road, and which in the judgment of said commissioners will be enhanced in value by the highway labor to be assessed thereon.

Dated this day of, 18...

OWNERS.	Number of road districts.	Description of land.	Value. .

.....

Commissioners.

FORMS FOR HIGHWAY LAW.

Form No. 27. Section 33.

COMMISSIONERS' ASSESSMENT OF HIGHWAY LABOR.

The undersigned, commissioners of highways of the town of Pittstown, in the county of, having met at, in said town, for the purpose of ascertaining, estimating and assessing the highway labor to be performed in said town the ensuing year, all the commissioners being present and having deliberated thereon (or all the commissioners having been duly notified to be present at this said meeting, for the purpose of deliberating thereon), do hereby ascertain, estimate and assess such labor as follows :

1. The whole number of days' work assessed for the year is, being at least three times the number of taxable inhabitants in said town.

2. Every male inhabitant above the age of twenty-one years (excepting all honorably discharged soldiers and sailors who lost an arm or leg in the service of the United States, during the late war, or who are unable to perform manual labor by reason of injuries received, or disabilities incurred, in such service, persons seventy years of age, clergymen and priests of every denomination, paupers, idiots and lunatics), there being, is assessed one day (or two days, etc.).

3. The residue of such work being, is assessed as follows, to-wit:

NAMES.	No. of days.

The lands in said town owned by non-residents are assessed as follows, to-wit:

DESCRIPTION OF LANDS.	No. of acres.	Valuation according to last assessment.	No. of days.	Road district.
A parcel of land bounded as follows: (Insert boundaries).....				

In witness whereof we have hereto set our hands this day of, 18..
(Signatures.)

FORMS FOR HIGHWAY LAW.

Form No. 28. Section 33.

ROAD WARRANT.

To....., *Overseer of Highways in District No....., of the Town of*
....., *which begins at, and ends at*:

I. You will give at least twenty-four hours' notice to all residents of your district, and corporations herein assessed to work upon the highways therein, of the time and place at which they are to appear for that purpose, and with what teams and implements, and that they will be allowed at the rate of one day for every eight hours of work on the highways, between seven o'clock in the forenoon and six o'clock in the afternoon. The notice to corporations shall be served personally on an agent thereof residing in the town, if any, or if none, by filing the notice in the office of the town clerk at least five days before the labor shall be required; and any number of days, not exceeding fifty, may be required to be performed by any such corporation in any one day. (SEC. 60.)

II. You will give at least five days' notice to every resident agent of every non-resident landholder, whose lands are assessed, of the number of days such non-resident is assessed, and the time and place at which the labor is to be performed. If you cannot ascertain that such non-resident has an agent within the town, you will file a written notice in the office of the town clerk, at least twenty days before the time appointed for performing such labor, containing the names of such non-residents, when known, and a description of the lands assessed with the number of days' labor assessed on each tract, and the time and place at which the labor is to be performed. (SEC. 61.)

III. Every person and corporation shall work the whole number of days for which he or it shall have been assessed except such days as shall be commuted for at the rate of one dollar per day, and such commutation money shall be paid to you within at least twenty-four hours before the time when the person or corporation is required to appear and work upon the highway; but any corporation may pay its commutation money to the commissioner of highways of the town, who shall pay the same to you as such overseer. (SEC. 62.)

IV. You may require a team, or a cart, wagon or plow, with a pair of horses, or oxen, and a man to manage them, from any person having the same within your district, who shall have been assessed three days or more, and who shall not have commuted for his assessment; and the person furnishing the same upon such requisition shall be entitled to a credit of three days for each day's service therewith. (SEC. 63.)

V. The names of persons or corporations omitted from this list, and of new inhabitants, shall from time to time be added thereto, and they shall be assessed by you as such overseer in proportion to their real and personal estate, to work on the highways as others assessed by the commissioners on this list, subject to an appeal to the commissioners of highways. (SEC. 35.)

VI. Every person or corporation assessed to work on the highways, and warned, who does not commute therefor, may appear in person or by an able-bodied man as a substitute. A day's labor shall be eight hours of work, and every person or corporation assessed more than one day shall be allowed to work ten hours in each day. (SEC. 64.)

VII. You, as such overseer of highways, shall, on or before the first day of October in each year, make out and deliver to the supervisor of your town, a list of all persons and corporations who have not worked out or commuted for their highway assessment, with the number of days not worked or commuted for by

FORMS FOR HIGHWAY LAW.

each, charging for each day in such a list at the rate of one dollar and fifty cents per day; and also a list of all the lands of non-residents and persons unknown, which were assessed on your warrant by the commissioners of highways, or added by you on which the labor assessed has not been performed or commuted for, and the number of days' labor unpaid by each, charging for the same at the rate of one dollar and fifty cents per day, which list shall be accompanied by your affidavit that you have given the notice required to appear and work and that the labor specified in the list returned has not been performed or commuted. (Sec. 66.)

VIII. You shall on the second Tuesday next preceding the time of holding the annual town meeting in your town, within the year for which you are elected or appointed, render to one of the commissioners of highways of the town, an account in writing, verified by your oath and containing

1. The names of all persons assessed to work on the highways in the district of which you are overseer.

2. The names of all those who have actually worked on the highways, with the number of days they have so worked.

3. The names of all those from whom penalties have been collected, and the amounts thereof.

4. The names of all those who have commuted, and the manner in which the moneys arising from penalties and commutations have been expended by you.

5. A list of all persons whose names you have returned to the supervisor as having neglected or refused to work out their highway assessments, with the number of days and the amount of tax so returned for each person, and a list of all the lands which you have returned to the supervisor for non-payment of taxes, and the amount of tax on each tract of land so returned; and you shall then and there pay to the commissioners of highways all money remaining in your hands unexpended. (Sec. 69.)

IX. You shall between the fifteenth day of June and the first day of July, and between the fifteenth day of August and the first day of September, give written notice to any occupant of the premises to cut all weeds, briars and brush growing within the bounds of the highway; if such occupant shall not cut such weeds, briars and brush as so required within ten days after receiving such notice you shall employ some one to do such work and make a report under oath to the commissioners of highways of the amount expended by you thereon, and the ownership and occupancy of the several parcels of land against which the labor was performed on or before the first day of November in each year. (Sec. 70, 71.)

X. Below herein is given the names of all residents of your district and corporations assessed to work upon the highways therein and the number of days of highway labor assessed to and to be performed by each the following year; also a list and statement of all unoccupied lots, pieces or parcels of land within the town, owned by non-residents; with a description of every such lot described in the same manner as is required from assessors, and its value set down opposite to the description.

Given under hand in, this day of, 18...

.....
.....
.....

Commissioners of Highways.

FORMS FOR HIGHWAY LAW.

NAMES OF PERSONS AND CORPORATIONS ASSESSED.	Days assessed.	Days worked.	Days commuted.	Amount of fines.

DESCRIPTION. (Unaccepted Non-resident lots and descriptions.)	Value.	Days assessed.	Days worked.	Days commuted.	Amount of fines.

..... COUNTY, ss.:

....., overseer of highways of road district No. . ., being duly sworn, depose and saith, that the above account is true, according to the best of his knowledge and belief.

.....

Subscribed and sworn before me, this }
day of....., 18...

(By favor of Avery Herriock, Publisher and Printer, Albany, N. Y.)

Form No. 29. Section 35.

ASSESSMENT BY OVERSEER OF PERSONS LEFT OUT OF THE LIST.

The following named persons having been left out of the foregoing (or annexed) list for said road district No., in said town of (they having become inhabitants of said district since said list was made), I do hereby assess the said persons to work on the highways in said district, as follows, viz.:
....., 3 days;, 4 days.

Dated this day of..... 18...

.....
Overseer of Road District No. 6.

FORMS FOR HIGHWAY LAW.

Form No. 30. Section 36.

APPEAL BY NON-RESIDENT.

COUNTY OF }
TOWN OF } ss.:

....., a non-resident owner of lands in said town, considering (or agent of a non-resident owner of lands in said town, who considers) himself aggrieved in the assessment for highway labor by the commissioners of highways of said town, upon the following described lands, to-wit: (Here describe them as in the list made by the commissioners) does hereby appeal from the assessment of said commissioners to the county judge of said county.

Dated this day of, 18...

.....

Form No. 31. Section 36.

NOTICE BY THE OWNER OR HIS AGENT, OF THE APPEAL TO THE COMMISSIONERS OF HIGHWAYS.

To, and, Commissioners of Highways of the Town of.....:

You are hereby notified, that considering myself aggrieved by your assessment for highway labor of the land owned by me in said town, I have this day appealed to the county judge of the county of, who will on the ... day of, at o'clock, in the noon, at, in the village of ... hear and decide on said appeal.

Dated this day of, 18...

.....

Form No. 32. Section 42.

ANOTHER ASSESSMENT BY OVERSEER.

WHEREAS, I,, overseer of road district No., in the town of, and county of, do not deem the labor assessed on the inhabitants of said town of, for the year 18..., sufficient to keep the highways in said district in repair; therefore, I do hereby further assess the following named persons — actual residents in said district — the amount of labor set opposite their respective names, being in the same proportion as near as may be, and not to exceed one-third of the number of days assessed in the same year by the said commissioners, on the inhabitants of said district:

NAMES.	Days.	NAMES.	Days.

Witness my hand this day of, 18...

.....

Overseer.

FORMS FOR HIGHWAY LAW.

Form No. 33. Section 43.

ORDER OF COMMISSIONERS FOR TREES AND SIDEWALK.

At a meeting of the commissioners of highways of the town of, in the county of, held at, in the town aforesaid, on the day of, 18...; upon application of, a resident of said town, and an owner of property adjoining a highway in said town, to locate and plant trees and locate and construct sidewalks along said highway, it is ordered by said commissioners that the said may, at his own expense, locate and plant trees and locate and construct sidewalks along the highway adjoining his premises, in highway district No. in said town, in conformity with the topography thereof and according to the map or diagram hereto attached, which is hereby made a part of this order.

Dated this day of, 18...

Certified,

.....
.....
.....

Commissioners of Highways.

Commissioners of Highways.

To foregoing order, annex a map or diagram showing the location of the sidewalk and tree planting, and then indorse on said map or diagram the following:
Certified.

Dated the day of, 18...

.....
.....
.....

Commissioners of Highways.

Form No. 34. Section 45.

APPLICATION TO EXPEND HIGHWAY TAX FOR SIDEWALKS.

To the Commissioners of Highways of the Town of, in the County of.....:

We, the undersigned, a majority of the inhabitants of highway district No. ..., in said town of, subject to assessment for highway labor therein, hereby make application to you for authority to expend (or to anticipate and expend) (not more than one-quarter) of the highway labor or commutation money of said district for the construction, improvement and repairs of the sidewalks in said district for the term of (not exceeding three) years, pursuant to section 45 of the highway law.

Dated this day of, 18...

.....
.....
.....
....., etc.

FORMS FOR HIGHWAY LAW.

Form No. 35. Section 45.

AUTHORITY TO EXPEND HIGHWAY TAX FOR SIDEWALK.

COUNTY OF } ss.:
TOWN OF , }

We, the undersigned, commissioners of highways of said town, hereby authorize the overseer of highway district No., in said town, to expend (or to anticipate and expend) (not exceeding one-quarter) of the highway labor or commutation money received therefor, in said district, for the term of (not exceeding three) years, in the construction, improvement and repair of the sidewalk within the limits of said district, pursuant to section 45 of the Highway Law

Dated this day of, 18..

.....
.....
.....
Commissioners of Highways.

Form No. 36. Section 46.

CERTIFICATE OF ANTICIPATION.

COUNTY OF } ss.:
TOWN OF , }

I, the undersigned, overseer of highway district No., in the said town of, hereby certify that has anticipated and worked (or commuted for) days, constructing, improving and repairing the sidewalk within the limits of said district, pursuant to section 45 of the Highway Law.

Dated this day of, 18..

.....
Overseer of Highway District No.

Form No. 37. Section 47.

ASSIGNMENT TO BE INDORSED ON THE BACK OF CERTIFICATE IN CASE OF TRANSFER.

For value received, I hereby assign and transfer all my right and interest in and to the within certificate of anticipation to, grantee of the real property upon which such highway labor is assessable.

Date this day of, 18..

Form No. 38. Section 51.

*APPLICATION FOR A VOTE TO CHANGE SYSTEM OF WORKING HIGHWAYS.

To the Electors of the Town of, in the County of

We, the undersigned, taxpayers of said town of, hereby request that a vote by ballot be taken at the next annual town meeting in said town by the electors thereof, upon the question of changing the system of taxation for working the highways in said town, pursuant to sections 50, *et seq.*, of the Highway Law.

Dated this ... day of, 18...

(Taxpayers sign here.)

(At least twenty-five taxpayers must sign.)

*The application must be filed in the office of the town clerk at least twenty days before the annual town meeting, pursuant to section 34 of the Town Law.

FORMS FOR HIGHWAY LAW.

Form No. 39. Section 60.

NOTICE TO CORPORATION TO BE SERVED ON AGENT OR FILED IN OFFICE OF
TOWN CLERK.

To, a Corporation (or, Agent of):

Take notice that you (.....) are assessed days' labor in highway district No. in the town of, county of, and that said labor is required to be performed on the highway (state where) in said district, on the ... day of next, and the days following, and you are required to furnish (state what teams and implements, if any), and to perform days' labor in a day, and will be allowed one day for every eight hours of work on said highway between seven o'clock in the forenoon and six o'clock in the afternoon.

Dated this day of, 18...

Overseer of Highway District No. ...

Form No. 40. Section 61.

NOTICE TO AGENT OF NON-RESIDENT.

To, Resident Agent of, a Non-resident Owner of Lands in
Town of, in the County of

Take notice that, a non-resident agent of the said town, is assessed days' labor in highway district No. . . . , in said town, and that said labor is required to be performed on the highway (state where) in said district on the . . . day of next, and the days following.

Dated this day of, 18...

Overseer of Highway District No. . . .

Form No. 41. Section 61.

NOTICE TO NON-RESIDENTS TO BE FILED IN THE OFFICE OF TOWN CLERK.

Notice is hereby given that the highway labor assessed on the following described parcels of land in the town of _____, county of _____, owned by non-residents, is required to be performed from the ... day of next, in highway district No., in said town, on the highway (state where).

NON-RESIDENTS' NAMES, IF KNOWN.	Description of lands assessed.	Days' assessment on each tract.

Dated this day of, 18...

Overseer of Highway District No. . . .

FORMS FOR HIGHWAY LAW.

Form No. 42. Section 66.

OVERSEER'S RETURN TO SUPERVISOR.

To the Supervisor of the Town of, County of

The following is a list of all persons and corporations in said road district who have not worked out or commuted for their highway assessment, with the number of days not worked or commuted for by each, charging for each day in such list at the rate of one dollar and fifty cents per day; and also a list of all the lands of non-residents and persons unknown, which were assessed on your warrant, for the year 18.., by the commissioners of highways, or added by you, on which the labor assessed has not been performed or commuted for, and the number of days' labor unpaid by each, charging for the same at the rate of one dollar and fifty cents per day.

OWNER'S NAME.	Description of lands.	Assessed value.	No. of days.	Amount.

..... COUNTY, ss.:

....., being duly sworn, says that he is overseer of highways of road district No., in the town of, in the county of Deponent further says he has given to each of the persons and corporations named in the above list the notices required by chapter 568 of the Laws of 1890, and that the labor specified in said list for which such residents and such land is returned, has not been performed or commuted.

Subscribed and sworn to before me, {
this day of, 18... }

.....,
Justice of the Peace.

(By favor of Avery Herrick, Publisher and Printer, Albany, N. Y.)

Form No. 43. Section 66.

ANOTHER FORM FOR OVERSEER'S RETURN TO SUPERVISOR.

To the Supervisor of the Town of, in the County of

The following is a list of all persons and corporations in highway district No., in the said town of, who have not worked out, or commuted for, their highway assessments, with the number of days not worked or commuted for by each, at one dollar and fifty cents per day, and also a list of all the lands of non-residents and of persons unknown, which are assessed on my warrant by

FORMS FOR HIGHWAY LAW.

the commissioners of highways, or added by me, on which the labor assessed has not been performed or commuted for, and the number of days' labor unpaid by each, at the rate of one dollar and fifty cents per day:

OWNER'S NAME.	Description of lands.	Assessed value.	No. of days.	Amount.

LIST OF NON-RESIDENT LANDS.

OWNER'S NAME.	Description of lands.	Assessed value.	No. of days.	Amount.

STATE OF NEW YORK, }
COUNTY OF }

.....,
Overseer of Highway District No. ...

....., being duly sworn, says he is the overseer of highway district No., in the town of, in the county of , and that he has given the notice required to appear and work, and that the labor specified in the foregoing lists returned has not been performed or commuted.

.....,
Overseer of Highway District No. ...

Subscribed and sworn to before me, }
this day of, 18...

.....,
Justice of the Peace.

Form No. 44. Section 69.

OVERSEER'S ANNUAL ACCOUNT.

To the Commissioners of Highways of the Town of, County of.....:

The undersigned, overseer of highways of road district No. in said town, pursuant to law, renders the following annual account, containing:

1. The names of all persons assessed to work on the highways in the district of which he is overseer.

FORMS FOR HIGHWAY LAW.

2. The names of all those who have actually worked on the highways, with the number of days they have so worked.

3. The names of all those from whom penalties have been collected, and the amounts thereof.

4. The names of all those who have commuted, and the manner in which the moneys arising from penalties and commutations have been expended by him.

5. A list of all persons whose names he has returned to the supervisor as having neglected or refused to work out their highway assessments, with the number of days and the amount of tax so returned for each person, and a list of all the lands which he has returned to the supervisor for non-payment of taxes, and the amount of tax on each tract of land so returned. (SEC. 69.)

NAMES.	Days assessed.	Days worked.	Days commuted.	Amount penalties.
.....
.....
.....
Total number of days assessed				
Total number of days worked.....				
Total number of days commuted.....				
Total number of fines				

LIST OF ALL PERSONS RETURNED TO SUPERVISOR AS HAVING NEGLECTED OR REFUSED TO WORK OUT THEIR HIGHWAY ASSESSMENT.

NAMES.	Days assessed.	Amount returned.

LIST OF ALL LANDS RETURNED TO SUPERVISOR FOR NON-PAYMENT OF TAXES AND THE AMOUNT OF TAX ON EACH TRACT OF LAND SO RETURNED.

DESCRIPTION.	Amount returned.

STATEMENT OF THE MANNER IN WHICH THE MONEYS ARISING FROM FINES
AND COMMUTATIONS HAVE BEEN EXPENDED BY ME.

RECEIPTS.		
Whole amount received from fines and commutations as above stated		
EXPENDITURES.		
For by order of commissioner		
"		
"		
"		
" repairs of bridge		
" " "		
Leaving balance in my hands of		

COUNTY OF, ss.:

....., overseer of highways for road district No. of the town of
....., in said county, being duly sworn says, that the foregoing account
is in all respects true.

Subscribed and sworn to before me, }
this day of, 18. , }

Form No. 45. Section 69.

To the Commissioners of Highways of the Town of , in the County
of :

The undersigned, overseer of highway district No. . . . , in said town, hereby renders the following account pursuant to section 69 of the Highway Law:

1. The names of all persons assessed to work on the highways in said district are as follows:

NAMES.	Days assessed.

FORMS FOR HIGHWAY LAW.

2. The names of all those who have actually worked on the highways, with the number of days they have worked are as follows:

NAMES.	Days work.

3. The names of all those from whom penalties have been collected, and the amounts thereof.

NAMES.	Amount.

4. The names of all those who have commuted, and the amount of the commutation, are as follows:

NAMES.	Amount.

5. The moneys arising from penalties and commutations have been expended as follows: (State how.)

FORMS FOR HIGHWAY LAW.

6. Names of persons returned to the supervisor as having neglected or refused to work out their highway assessments, with the number of days and the amount of tax so returned for each person are as follows :

NAMES.	Days assessed.	Amount of tax.

7. The following is a list of all the lands returned to the supervisor for non-payment of taxes, and the amount of tax on each tract of land so returned :

NAMES OF OWNERS.	Description.	Assessed value.	Number days.	Amount

.....
Overseer of Highway District No. ...

COUNTY OF }
TOWN OF } ss.:

....., being duly sworn, says he is overseer of highway district No. in the town of , and that the foregoing account, subscribed by him, is true to the best of his knowledge and belief.

.....
Overseer of Highway District No. ...

Subscribed and sworn to before me, }
this day of, 18... }

.....,
Justice of the Peace.

FORMS FOR HIGHWAY LAW.

Form No. 46. Section 71.

NOTICE TO OCCUPANT TO CUT WEEDS, BRUSH AND BRIERS.

To, Occupant of (briefly describe the premises) Abutting on the Highway
in Highway District No., in the Town of, County
of, N. Y.:

The undersigned, overseer of highways of said district, hereby notifies and requires you to cut all weeds, briars and brush growing upon the above described lands, within the bounds of said highway, within ten days after the receipt of this notice; and if you fail to do so, he will cause the same to be cut, and make a report thereof pursuant to section 71 of the Highway Law.

Dated this day of, 18...

.....,
Overseer of Highway District No. ...

Form No. 47. Section 71.

OVERSEER'S REPORT TO COMMISSIONERS OF AMOUNT EXPENDED CUTTING WEEDS.

To the Commissioners of Highways of the Town of, in the
County of:

The undersigned, overseer of highway district No., in said town, in accordance with section 71 of the Highway Law, hereby renders the following report:

The amount of money expended by him for cutting weeds, briars and brush within the bounds of the highway in said district, and the names of the owners and occupants of the several parcels of land against which said labor was performed, with a brief description of the same, are as follows:

NAME OF OWNER.	Name of occupant.	Description of premises.	Amount expended.

And in each case, default was made by the occupant, after due notice had been given.

Dated this day of, 18...

.....,
Overseer of Highway District No.

COUNTY OF, }
TOWN OF, } ss.:

....., being duly sworn, says the foregoing report subscribed by him is true.

Subscribed and sworn to before me, }
this ... day of, 18... }

.....,
Justice of the Peace.

FORMS FOR HIGHWAY LAW.

Form No. 48. Section 71.

COMMISSIONERS' CERTIFICATE TO THE SUPERVISOR.

To, Supervisor of the Town of, in the
County of

The undersigned, commissioners of highways of said town, hereby certify that the annexed reports were made by the overseers of highways respectively whose names are thereto subscribed, pursuant to section 71 of the Highway Law.

Dated this day of, 18...

.....,
.....,
.....,
Commissioners of Highways.

Form No. 49. Section 80.

ORDER LAYING OUT HIGHWAY ON RELEASE FROM OWNERS.

At a meeting of the commissioners of highways of the town of, in the county of, on the day of, 18..., for the purpose of deliberating on the propriety of laying out a highway in said town, hereafter described, it is, on the application of, a person liable to be assessed for highway labor in said town (or without a written application therefor), and a release from the owners of the land through which the highway is proposed to be opened, ordered and determined that a highway shall be, and the same is hereby laid out in said town as follows: Beginning (here insert the survey bill), and the line of survey shall be the center of the highway, which shall be rods in width.

Dated this day of, 18...

.....,
.....,
.....,
Commissioners of Highways.

Form No. 50. Section 80.

DEDICATION OF LAND, AND RELEASE OF DAMAGES.

I,, of the town of, county of, N. Y., hereby dedicate to the town of, aforesaid, a strip of land across my premises in said town, for the purposes of a highway, described as follows: (Here describe premises dedicated.) And I also hereby, for value received, release said town from all damages by reason of the laying out and opening of said highway.

In witness whereof, I have hereunto set my hand and seal, this....day of, 18..

[L. S.]

STATE OF NEW YORK, }
COUNTY OF, } ss.:

On this....day of....., 18.., before me, the subscriber, personally appeared....., to me known to be the person described in, and who executed, the foregoing agreement.

.....,
Justice of the Peace.

FORMS FOR HIGHWAY LAW.

Form No. 51. Section 80.

CONSENT OF TOWN BOARD TO LAY OUT OR ALTER A HIGHWAY.

The undersigned, the town board of the town of....., in the county of....., hereby consent that the commissioners of highways of said town make an order laying out (or altering) the proposed highway described in the application of....., pursuant to section 80 of the Highway Law.

Dated this day of, 18...

.....,

Supervisor.

.....,

.....,

Town Clerk.

.....,

.....,

.....,

.....,

Justices of the Peace.

Form No. 52. Section 80.

ORDER LAYING OUT OR ALTERING A HIGHWAY WITH THE CONSENT OF TOWN BOARD.

At a meeting of the commissioners of highways of the town of....., in the county of....., on the....day of....., 18..., for the purpose of deliberating on the propriety of laying out (or altering) a highway in said town, hereinafter described, on the written application of....., a person liable to be assessed for highway labor in said town, and the written consent of the town board of said town, and a release from the owners of the land through which the proposed highway is to be opened, the consideration of any one claimant not exceeding \$100, and to all the claimants not exceeding \$500, it is ordered and determined that a highway shall be, and the same is hereby laid out in said town, as follows: (Here insert survey bill.) And the line of survey shall be the center of the highway, which shall be.....rods in width.

Dated this.... day of, 18:..

.....,

.....,

.....,

Commissioners of Highways.

Form No. 53. Section 80.

RELEASE OF DAMAGES BY OWNER OF THE LAND.

I,, of the town of....., county of....., N. Y., for and in consideration of the sum of (not exceeding \$100), hereby consent that a highway be laid out and opened (or altered) across my premises in the town of....., county of....., N. Y., pursuant to the application of, dated the ...day of....., 18..., and release said town from all damages by reason of laying out and opening (or altering) such highway through my premises.

Dated this day of, 18...

(Acknowledgment clause.)

.....

FORMS FOR HIGHWAY LAW.

Form No. 54. Section 82.

APPLICATION TO LAY OUT A HIGHWAY.

To the Commissioners of Highways of the Town of....., in the County of

The undersigned, an inhabitant of said town of....., liable to be assessed for highway labor therein, hereby applies to you to lay out a highway in said town, commencing (describe the proposed highway), which proposed highway will pass through the lands of..... and (who consent to the laying out of the highway, or as the case may be).

Dated this day of , 18...

.....

Form No. 55. Section 82.

APPLICATION TO LAY OUT ROAD.

To the Commissioners of Highways of the Town of....., in the County of

The undersigned, residents of said town (or owning lands in said town), and liable to be assessed for highway labor therein, hereby apply to the said commissioners of highways to lay out a road in said town, commencing at the north-west corner of a lot of land in the possession of, and running, etc. (describing the proposed road), which proposed road will pass through the inclosed, improved and cultivated lands of and

(Signed.)

Form No. 56. Section 82.

APPLICATION TO ALTER A HIGHWAY.

To the Commissioners of Highways of the Town of....., in the County of

The undersigned, an inhabitant of said town of, liable to be assessed for highway labor therein, hereby applies to you to alter the highway leading from to, in said town, as follows :

(Insert particular description of the proposed alteration by courses and distances.)
The proposed alteration passes through the lands of and (who consent to the proposed alteration, or as the case may be).

Dated this day of , 18...

.....

Form No. 57. Section 82.

APPLICATION FOR THE ALTERATION OF A ROAD.

To the Commissioners of Highways of the Town of....., in the County of

The undersigned, residents of said town (or owning lands in said town), and liable to be assessed for highway labor therein, do apply to said commissioners to alter the highway leading from the house of to the Northern turnpike in said town, as follows : (Insert particular description of the proposed alteration by known boundaries or objects, or courses and distances.) The pro-

FORMS FOR HIGHWAY LAW.

posed alteration passes through lands which are not improved, inclosed or cultivated (or passes through the lands of..... and , who have not given their consent to said alterations).

Dated, etc.

.....
.....

Form No. 58. Section 82.

APPLICATION TO DISCONTINUE A HIGHWAY.

To the Commissioners of Highways of the Town of , in the County of :

The undersigned, an inhabitant of said town of , liable to be assessed for highway labor therein, hereby applies to you to discontinue the old highway beginning (insert description), on the ground that said highway has been abandoned.

Dated this day of 18...

.....

Form No. 59. Section 82.

APPLICATION TO DISCONTINUE OLD ROAD.

To the Commissioners of Highways of the Town of , in the County of :

The undersigned, residents of said town, and liable to be assessed for highway labor therein, do hereby apply to you, the said commissioner, to discontinue the old road in said town, beginning, etc. (insert general description), on the ground that said road has become useless and unnecessary.

Dated, etc.

(Signatures.)

Form No. 60. Section 83.

APPLICATION FOR COMMISSIONERS.

COUNTY COURT.— COUNTY.

IN THE MATTER OF THE APPLICATION OF TO LAY OUT (ALTER OR DISCONTINUE) A HIGHWAY IN THE TOWN OF AND THE ASSESSMENT OF DAMAGES THEREFOR.

To the County Court of County :

The petition of of the town of in said county, respectfully shows that your petitioner is a person liable to be assessed for highway labor in the town of said county ; that on the day of 18.. , he presented an application in writing to the commissioners of highways of said town, as follows: (Insert copy of the application to the commissioners.) That said application was in good faith made; that the commissioners of highways have not laid out (altered or discontinued) said highway pursuant to section 80 of the Highway Law, and that thirty days have not elapsed since the presentation of the application.

FORMS FOR HIGHWAY LAW.

Wherefore, Your petitioner prays that three commissioners be appointed pursuant to section 84 of the Highway Law, to determine upon the necessity of the proposed highway (or altering or discontinuing the said highway), and to assess the damages by reason of laying out and opening (or altering or discontinuing) such highway.

Dated this day of, 18..

STATE OF NEW YORK, }
COUNTY OF....., } ss.:

....., being duly sworn, says he has read the foregoing petition by him subscribed, and that the same is true to his knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters he believes it to be true.

Subscribed and sworn to before me, }
this day of, 18.. }

.....,
Justice of the Peace.

Form No. 61. Section 84.

ORDER APPOINTING COMMISSIONERS.

At a term of the County Court of the county of held at
..... in the in and for said county.

Present — Hon., *County Judge.*

(Entitled as in form last preceding.)

On reading and filing the petition of, of the town of in said county, dated the day of, 18., praying for three commissioners to be appointed, pursuant to section 84 of the Highway Law, to determine upon the necessity of laying out and opening (altering or discontinuing) a highway beginning (insert the description) and to assess the damages by reason of laying out (altering or discontinuing) such highway, it is hereby ordered that and of the town of, said county, be, and they are hereby appointed such commissioners.

Form No. 62. Section 84.

NOTICE TO COMMISSIONERS OF THEIR APPOINTMENT.

To, and

Take notice, that you and each of you, have been duly appointed commissioners, by an order of the County Court, a copy of which is hereto annexed, and you are hereby required to fix a time and place at which you will all meet to hear the commissioners of highways and all other persons interested in the highway mentioned in the said order.

Dated this day of, 18..

FORMS FOR HIGHWAY LAW.

Form No. 63. Section 84.

SUBPENA BY COMMISSIONERS.

The People of the State of New York to and

You and each of you are hereby commanded to be and appear before us, commissioners appointed by the County Court of county, at the , in the town of on the ... day of , 18.., at .. o'clock in the noon, to testify and give evidence in the matter of laying out a highway and assessing the damages therefor, in the town of , then and there to be heard and determined.

Dated this day of , 18..

.....
.....
.....

Commissioners.

Form No. 64. Section 84.

OATH TO BE ADMINISTERED BY COMMISSIONERS TO WITNESSES.

You do solemnly swear that the evidence you shall give touching the necessity of laying out the highway in question, and assessing the damages therefor (or as the case may be), shall be the truth, the whole truth, and nothing but the truth, so help you God.

Form No. 65. Section 85.

NOTICE OF MEETING OF COMMISSIONERS.

Notice is hereby given that the undersigned has made application to the commissioners of highways of the town of , in the county of , for the laying out (altering or discontinuing) of a highway in said town, commencing (here insert description as in application), which proposed highway (or alteration) will pass through the lands of (describe who), and by an order of the County Court dated the....day of....., 18, and were appointed commissioners to determine upon the necessity of said proposed highway (alteration or discontinuance), and to assess the damages by reason of the laying out and opening (alteration or discontinuance) of such highway, and that said commissioners will all meet at....., in said town, on the....day of....., 18...., at ...o'clock in the.....noon, to examine the proposed highway (or the highway), and hear the commissioners of highways and all others interested therein, and to assess the damages if such highway be determined to be necessary (or is altered or discontinued).

Dated this....day of..... 18....

.....

FORMS FOR HIGHWAY LAW.

Form No. 66. Section 85.

AFFIDAVIT OF POSTING AND SERVICE OF NOTICE.

STATE OF NEW YORK, }
COUNTY OF....., } ss.:

....., being duly sworn, says that he caused notices in writing, of which the within is a copy, to be posted up at... ..and, three public places in the town of....., said county, on the ...day of, 18 .., and that he served a like notice on (name all the owners and occupants of the lands through which the highway is proposed to be laid out, altered or discontinued) on the...day of....., 18 .., by (state how served), and that said notices were posted at the respective places, and served on the respective persons herein named, at least eight days before the time specified therein for the meeting of said commissioners.

Subscribed and sworn to before me, }
this...day of....., 18.... }

.....
Justice of the Peace.

Form No. 67. Section 86.

CERTIFICATE OF COMMISSIONERS IN FAVOR OF APPLICANT.

The undersigned, by an order of the County Court of.....county, dated the...day of....., 18 .., on the application of....., having been appointed commissioners to determine upon the necessity of laying out and opening (altering or discontinuing) a highway in the town of... ..in said county, beginning (describe highway as in the application), which proposed highway (or highway) crosses the lands of (name the persons), and to assess the damages to be caused thereby; now, therefore, we, the said commissioners, having given due notice of the time and place at which we would meet, and all having met at.....in said town on the ...day of....., 18.... pursuant to such notice, and having taken the constitutional oath of office, and on proof of the service and posting of the notices by the applicant, pursuant to section 85 of the Highway Law, having viewed the proposed highway (or alteration or highway proposed to be discontinued) and the lands through which it is proposed to be laid out and opened (altered or discontinued), and having heard all the allegations of the commissioners of highways and the parties interested therein, and the evidence of all the witnesses produced, do thereupon certify, that in our opinion * it is necessary and proper that the highway be laid out and opened (altered or discontinued) pursuant to the said application of....., dated the...day of, 18...., and we have assessed the damages required to be assessed by reason of laying out and opening (altering or discontinuing) such highway as follows:

The damages of.....at \$.....; the damages of.....at \$... ..

Dated this...day of.....18....

.....
.....
.....
Commissioners.

FORMS FOR HIGHWAY LAW.

Form No. 68. Section 88.

CERTIFICATE OF COMMISSIONERS DENYING APPLICATION.

(Use Form No. . . to the * and add the following :)

Such highway, or alteration, is unnecessary, or such highway proposed to be discontinued is not useless.

Dated this day of, 18...

.....
.....
.....

Commissioners.

Form No. 69. Section 89.

NOTICE OF MOTION TO CONFIRM.

COUNTY COURT.— COUNTY.

IN THE MATTER OF THE APPLICATION OF TO LAY OUT (ALTER OR DISCONTINUE) A HIGHWAY IN THE TOWN OF, AND THE ASSESSMENT OF DAMAGES THEREFOR.

To and :

Take notice that, upon the decision of the commissioners, dated the day of, 18.., affidavits and papers in the above entitled matter, copies of which are herewith served upon you, an application will be made to this court at a term thereof, to be held at the in the of, on the day of, 18.., for an order^d confirming the said decision, and for such other and further relief as to the court may seem proper.

Dated this day of, 18...

.....

Form No. 70. Section 89.

NOTICE OF MOTION TO VACATE OR MODIFY DECISION.

(Use Form No. 69 to the * and add the following :)

Vacating (modifying or correcting, in the following particulars, stating them) the said decision, with costs of this motion, and such further relief as the court may deem proper.

Dated this day of, 18...

.....

Form No. 71. Section 89

ORDER CONFIRMING DECISION OF COMMISSIONERS.

At a term of the County Court, held at the
in the of, on the day of, 18..

Present — Hon., *County Judge.*

(Entitle as in Form No. 60.)

On reading and filing the decision of the commissioners,
. and, in the above entitled matter, dated the
. day of, 18.., by which it appears (state substance of

FORMS FOR HIGHWAY LAW.

decision), with proof of due service upon and
of notice of this application and (state other papers) and on motion of,
counsel for, after hearing, counsel for
and, opposed, and on reading (name the papers) it is hereby
ordered that the said decision be, and the same is, hereby* confirmed.
.....

Form No. 72. Section 89.

ORDER VACATING OR MODIFYING DECISION.

(Use Form No. 71 to the * and add as follows:)

Vacated (or modified or corrected as follows: State how. Or that a new hearing be had before the same or other commissioners to be named herein), with \$..... costs of this motion to against
.....

Form No. 73. Section 89.

LAYING OUT HIGHWAY ON THE CERTIFICATE OF COMMISSIONERS.

WHEREAS, did present to us as commissioners of highways of the town of, in the county of, a written application dated the day of, 18.., to lay out a highway in said town; and,

WHEREAS, Commissioners were appointed by the County Court of said county, pursuant to section 84 of the Highway Law, and after having duly met, certified that such proposed highway was necessary and proper and should be laid out and opened, and assessed the damages therefor; and

WHEREAS, Said court has confirmed the decision of said commissioners (or no motion has been made to the County Court to confirm, vacate or modify such decision) and said application, orders and certificate (or other papers) have been duly filed in the office of the town clerk of said town, to which reference is here made;

Now, therefore, we, the undersigned, commissioners of highways of said town, pursuant to section 89 of the Highway Law, do hereby lay out such highway as so applied for and ordered, whereof a survey has been made as follows: Beginning (here insert survey bill) and the line of such survey shall be the center of the highway, which is to be rods in width.

Dated this day of, 18.. .

.....
.....
.....
Commissioners of Highways.

Form No. 74. Section 90.

OWNERS' CONSENT FOR A HIGHWAY TO BE LAID OUT THROUGH AN ORCHARD.

WHEREAS, has made application in writing to the commissioners of highways of the town of, in the county of, dated the .. day of, 18.., to lay out a highway in said town beginning at (insert description), and which said highway will pass through my orchard.

Now, therefore, I do hereby consent that such highway be so laid out, opened,

FORMS FOR HIGHWAY LAW.

worked and used through my said orchard; but this consent shall not be construed as a waiver or release of my claim for damages, by reason thereof.

Dated this ... day of, 18..

Form No. 75. Section 90.

CERTIFICATE TO THE COUNTY COURT TO LAY OUT A HIGHWAY THROUGH AN ORCHARD.

COUNTY COURT.—.....COUNTY.

IN THE MATTER OF THE APPLICATION OF..TO LAY OUT A HIGHWAY IN THE TOWN OF....., AND THE ASSESSMENT OF DAMAGES THEREFOR.

To the County Court of.....County :

The undersigned, commissioners of highways of the town of....., in said county, hereby certify that on the....day of....., 18.., who is liable to be assessed for highway labor in said town, made a written application to us as such commissioners to lay out a highway in said town, passing through an orchard of, of the growth of four years or more, pursuant to section 90 of the Highway Law, as follows: (Insert a copy of the application.) And that the said... does not consent thereto; that the following proceedings were had upon such application: (Insert a history of the proceedings up to and including the decision of the commissioners appointed by the courts.) We further certify that the public interest will be greatly promoted by the laying out and opening of such highway through said orchard (state concisely the facts showing such interest); and that commissioners appointed by this court have certified that such highway is necessary, and have assessed the damages of, by reason thereof, at \$.....

Dated this ...day of, 18..

.....,
.....,
.....,
Commissioners of Highways.

Form No. 76. Section 90.

ORDER OF COUNTY COURT TO LAY OUT HIGHWAY.

At a term of the.....County Court, held at....., in the..... of....., on the....day of....., 18..

Present—Hon., *County Judge.*

(Entitled as in Form No. 75.)

Upon reading and filing the certificate of, and, commissioners of highways of the town of....., in the county of....., dated the... day of, 18.., stating (here state the substance of the facts in the certificate), with proof of due service of notice of this motion, and upon reading the (state what papers), and after hearing....., of counsel for the applicant, and, of counsel for, opposed, it is hereby ordered that said highway be laid out and opened pursuant to section 90 of the Highway Law, with \$10 costs of this motion.

FORMS FOR HIGHWAY LAW.

Form No. 77. Section 90.

ORDER OF THE GENERAL TERM.

At a General Term of the Supreme Court, in the.....Department, held at the court-house, in the city of....., on the....day of....., 18..

Present—Hon., *P. J.*; Hon., Hon.,

Justices of the Supreme Court.

(Entitled as in Form No. 75.)

....., and, as commissioners of highways of the town of....., in the county of....., having presented to us the order of the County Court of.....county, dated the . . day of, 18.., that a highway be laid out in said town, passing through the orchard of....., of the growth of four years or more, pursuant to section 90 of the Highway Law, he, said, not consenting thereto, with the certificate and proofs upon which the said order was granted, duly certified by such court, with proof of due service of notice of this motion, on the said; and after hearing....., of counsel for the applicant, on the motion, and....., of counsel for....., opposed, it is hereby ordered that the said order of such County Court be and the same is hereby confirmed, with \$.costs of this motion.

Form No. 78. Section 90.

LAYING OUT OF HIGHWAY.

WHEREAS, did, on the day of , 18.., present to us, as commissioners of highways of the town of, in the county of, a written application to lay out a highway in said town, passing through an orchard of, of the growth of four years or more, and such proceedings having been had thereon, pursuant to section 90 of the Highway Law, that the County Court of said county has ordered said highway to be laid out and opened, which said order has been duly confirmed by a General Term of the Supreme Court in the department; and

WHEREAS, Said application, certificates, orders and other papers in said proceedings are duly filed in the office of the town clerk of said town, to which reference is here made; now, therefore, we, the undersigned commissioners of highways, pursuant to section 90 of the Highway Law, do hereby lay out said highway as so applied for and ordered, whereof a survey has been made as follows: Beginning (insert survey bill) and the line of survey is to be the center of the highway, which is to be rods in width.

Dated this day of, 18...

.....,
.....,
.....,

Commissioners of Highways.

(See section 98 of Highway Law.)

Form No. 79. Section 94.

SUBPOENA BY COMMISSIONERS.

(See Form No. 63.)

FORMS FOR HIGHWAY LAW.

Form No. 80. Section 94.

OATH TO WITNESSES.

(See Form No. 64.)

Form No. 81. Section 97.

APPLICATION TO LAY OUT A HIGHWAY ON TOWN LINE.*

To the Commissioners of each of the Towns and, in the County of.....:

We, the undersigned, an inhabitant of the town of, in said county, liable to be assessed for highway labor therein, and, an inhabitant of the town of, said county, and liable to be assessed for highway labor therein, hereby apply to you to lay out a highway on the line between said towns, beginning (here insert description of the proposed highway) and which said highway will pass through the lands of and

Dated this day of, 18...

.....
.....

Form No. 82. Section 97.

ORDER OF COMMISSIONERS FOR LAYING OUT A HIGHWAY ON THE LINE BETWEEN TWO TOWNS.

At a meeting of the commissioners of highways of the towns of and, in the county of, in the said town of, on the day of, 18.., for the purpose of laying out a highway upon a line between the said towns, two of the commissioners of each of the said towns being present, it is ordered and determined by the said commissioners, that a highway be laid out upon the line between the said towns, or as near thereto as the convenience of the ground will admit, according to a survey thereof, which the said commissioners have caused to be made, as follows: (insert survey) and that the said line as above described be the center of the said highway, and that the said highway be of the width of three rods. And it is further ordered, that the said highway be divided into two road districts, as follows: That part thereof from to shall be one of the said road districts, and shall be allotted to the said town of, and the residue of the said highway shall be the other of the said road districts, and shall be allotted to the said town of

In witness whereof, the said commissioners have hereto subscribed their names the day of, 18...

.....
.....
.....
.....
.....

Commissioners of Highways of the Town of

Commissioners of Highways of the Town of

* The subsequent proceedings are the same as where the highway is proposed to be laid out wholly within one town, except consents, releases, dedications, etc., must be given to both of towns. The commissioners of highways of both towns must unite in making the required orders or certificates, and all papers, used in the proceeding, must be made in duplicates, and one set thereof filed in the office of the town clerk of each town. If the proposed highway is on a county line, and application is made to the court, it must be made to the Supreme Court, at Special Term.

FORMS FOR HIGHWAY LAW.

Form No. 83. Section 99.

DESCRIPTION OF HIGHWAY ABANDONED.

We, the undersigned, commissioners of highways of the town of, in the county of, hereby certify that the following highway has been abandoned by the public, and is no longer used as a public highway (here describe it); and pursuant to section 99 of the Highway Law, the same is discontinued.

Dated this day of, 18...

.....
.....
.....

Commissioners of Highways

Form No. 84. Section 101.

NOTICE TO REMOVE FENCES.

To :

WHEREAS, The undersigned, commissioners of highways of the town of, in the county of, have laid out a public highway, by an order dated, 18.., and duly filed with the town clerk of said town, which said road passes through enclosed (cultivated or improved) lands, owned (or occupied) by you ; and,

WHEREAS, Our determination in the matter of laying out such road has not been appealed from;

Now, therefore, please to take notice, that you are required to remove your fences from within the bounds of said highway, within sixty days after service hereof.

Dated, etc.

Yours, etc.

Form No. 85. Section 103.

NOTICE TO REMOVE FALLEN TREES.

To :

Please take notice that a tree has fallen from your inclosed land into the highway (state where), and you are hereby required to remove the same within two days after service of this notice; and that, if you fail to remove it within such time, you will forfeit the sum of fifty cents for every day thereafter, until it shall be removed.

Dated this day of, 18..

.....

Form No. 86. Section 105.

NOTICE TO REMOVE OBSTRUCTION OR ENCROACHMENT.

To :

You are hereby notified, by the undersigned commissioners of highways of the town of, in the county of, that the highway, in highway district No. ... in said town, adjoining lands owned (or occupied) by you (state where) has been encroached upon (or obstructed) to the extent of (state how much) by the erection of a (or as the case may be) and you are hereby directed

FORMS FOR HIGHWAY LAW.

to remove the same within (not more than sixty) days after the service of this notice; and that, if you fail to comply with the requirements of this notice, you become liable to the penalty and costs of removal, or the relief, prescribed by section 105 of the Highway Law.

Dated this day of, 18..

.....,
.....,
.....,
Commissioners of Highways.

Form No. 87. Section 106.

APPLICATION FOR A PRIVATE ROAD.

To the Commissioners of Highways of the Town of, in the County of

The undersigned,, an inhabitant of said town and liable to be assessed for highway labor therein, hereby makes application to you to lay out a private road for his use and benefit, beginning with (insert description, giving its width and location, courses and distance) and said road is proposed to be laid out through the land of, occupied by

Dated this day of, 18...

Form No. 88. Section 108.

NOTICE TO OWNER AND OCCUPANT.

To, Owner and, Occupant :

WHEREAS, of the town of, in the county of, has made written application to us, the undersigned, as commissioners of highways of said town, to lay out a private road for his use and benefit in said town, a copy of which is hereto attached, you are hereby notified that a jury will be selected at the house of, in said town, on the day of, 18.., at .. o'clock in the noon, for the purpose of determining upon the necessity of such road, and assessing the damages by reason of the opening thereof.

Dated this day of, 18...

.....,
.....,
.....,
Commissioners of Highways.

Form No. 89. Section 109.

AFFIDAVIT OF SERVICE OF NOTICE.

STATE OF NEW YORK, {
TOWN OF, { ss. :

....., being duly sworn, says that he served the copy of the application and the notice hereto attached on, and, residents of said town, on the day of, 18.., by delivering to and leaving with each of them, copies of the same, on and, residents of but

FORMS FOR HIGHWAY LAW.

then absent from said town, by leaving a copy thereof at the residence of each of them; on and, non-residents of said town, by depositing in the post-office a copy thereof to each, properly inclosed in an envelope and addressed to them respectively at their post-office address, and paying the postage thereon; on, an infant owner and resident of said town, by delivering to him and to, his father (or guardian) a copy thereof; on, an infant owner and non-resident of said town, by depositing in the post-office a copy thereof to him and his father (or guardian) each, properly inclosed in an envelope, and addressed to them respectively at their post-office address, and paying the postage thereon. And deponent further says that he knew the persons so served as aforesaid to be the same persons respectively to whom the notice is addressed.

(Jurat.)

Form No. 90. Section 113.

OATH OF JURY.

You do solemnly swear, in the presence of the ever-living God, that you will well and truly determine as to the necessity of a private road across the lands of, as has been applied for by, and that you will well and truly assess the damages occasioned by the opening of such road.

Form No. 91. Section 112.

SUMMONS FOR A JURY TO DETERMINE THE PROPRIETY OF LAYING OUT A PRIVATE ROAD.

COUNTY OF....., }
TOWN OF....., } ss.:

The People of the State of New York to any one of the Constables of the Town of, County of, Greeting:

You are hereby directed to summon (insert names of all the jurors), to meet at the dwelling-house of, in said town, on the day of, 18..., at 9 o'clock in the forenoon, to form a jury to determine as to the necessity of laying out a private road through the land of, on the application of, and the amount of damages sustained by reason of such opening.

Witness our hands this, 18...

.....,
.....,
.....,
Commissioners of Highways.

Form No. 92. Section 114.

VERDICT OF JURY.

COUNTY OF, }
TOWN OF, } ss.:

We, the undersigned, being six disinterested freeholders of the said town of, having met on the day of, 18..., at the house of, in said town, and having been duly sworn, well and

FORMS FOR HIGHWAY LAW.

truly to determine as to the necessity of the private road described in the application of , a copy of which is hereto attached, and having viewed the premises through which it is proposed to be laid out, and having heard the allegations of the parties, and such witnesses as they have produced, do hereby determine that the proposed road is necessary, and assess the damages as follows: To , \$100; to , \$.....

Dated this day of , 18..

(Jurors sign here.)

Form No. 93. Section 116.

CERTIFICATE LAYING OUT A PRIVATE ROAD.

WHEREAS, did present to us, as commissioners of highways of the town of in the county of , a written application to lay out a private road in said town for his use and benefit, hereinafter described; and,

WHEREAS, Six disinterested freeholders have convened, after due notice to the owners and occupants of the lands through which said road is proposed to be laid, and have, after viewing said lands and hearing the parties and witnesses produced, determined that said road is necessary, and assessed the damages to be caused thereby, which verdict was dated the day of , 18.. , and duly filed with said application, in the office of the town clerk of said town; and

WHEREAS, No motion has been made to the County Court to confirm, vacate or modify (or as the case may be).

Now, therefore, we, the undersigned, commissioners of highways of said town, pursuant to section 116 of the Highway Law, do hereby certify that the said private road is laid out as so applied for and determined to be necessary, whereof a survey has been made as follows: (here insert survey bill) and the line of survey is to be the center of the road, which is to be rods in width.

Dated this ... day of , 18...

.....,
.....,
.....,

Commissioners of Highways.

(The application and this certificate are to be annexed by the commissioners to the verdict.)

Form No. 94. Section 132.

STATEMENT TO THE SUPERVISOR OF THE EXPENSES OF BRIDGES.

We, the undersigned, commissioners of highways of the town of , in the county of , pursuant to section 132 of the Highway Law, hereby render to the supervisor of said town a statement of the expenses incurred by us in the erection and repair of the free public bridges of said town as follows: (Here give a description of and an itemized account of the expenses incurred on each of the bridges.)

Dated this day of , 18...

.....,
.....,
.....,

Commissioners of Highways.

FORMS FOR HIGHWAY LAW.

COUNTY OF, }
TOWN OF, } ss.:

....., one of the commissioners of highways of said town, being duly sworn, says the foregoing statement, which is subscribed by him, is true.

Subscribed and sworn to before me, }
this day of....., 18... }

.....
Justice of the Peace.

Form No. 95. Section 135.

NOTICE TO COMMISSIONERS OF ADJOINING TOWNS.

To the Commissioners of Highways of the Town of, in the County of

WHEREAS, The bridge for the building and maintenance of which the town of and the town of are jointly liable (here describe it) has become, and is, in need of rebuilding (or repairing, and, if the latter, state in what respect), you are hereby notified and required to join with the undersigned commissioners of the town of, in the county of, in rebuilding (or repairing) said bridge, and to give your consent in writing to the same within twenty days after the service of this notice, pursuant to section 135 of the Highway Law.

Dated this day of, 18...

.....
.....
.....
Commissioners of Highways of the Town of

Form No. 96. Section 135.

CONSENT TO REBUILD OR REPAIR BRIDGE.

To the Commissioners of Highways of the Town of, in the County of

Pursuant to your notice served on us, dated the..... day of, 18..., and to section 135 of the Highway Law, we, the undersigned commissioners of highways of the town of, in the county of, hereby consent to join with you in rebuilding (or repairing) the (designate the bridge), it being the same bridge mentioned in your said notice.

Dated this day of, 18...

.....
.....
.....
Commissioners of Highways of the Town of.....

FORMS FOR HIGHWAY LAW.

Form No. 97. Section 136.

PETITION OF FREEHOLDERS TO COMMISSIONERS OF ADJOINING TOWNS.
STATE OF NEW YORK, } ss.:
COUNTY OF }

To..... and, *Commissioners of Highways*
of the Town of *in the County of* *and*
..... *and*, *Commissioners of Highways of the Town of*
..... *in the County of*

We, the undersigned, and, do,
respectfully, pursuant to section 136 of the Highway Law, petition and apply to
you, and show that we are severally freeholders of the said town of,
and that the bridge known as the (here designate the bridge), which crosses the
(name the stream), a stream forming the boundary line between said towns of
..... and, has become and is out of repair (state in what
respects); that said bridge has been repaired and maintained at the joint expense
of said towns, and said towns are jointly liable to make and maintain a bridge at
said point.

And we hereby petition and apply to you, the said commissioners, to rebuild or
(repair) the bridge at said point.

Dated this....day of, 18..

.....
.....
.....

(Verification clause as in Form No. 60.)

Form No. 98. Section 135.

COMMISSIONERS' REFUSAL TO BUILD BRIDGE.

To, and, *Freeholders of the Town of*
.....

We, the undersigned, commissioners of highways of the towns of.....
and, having been duly served with your petition, bearing date the
....day of, 18.., relating to the (designate the bridge), on the (desig-
nate the stream), between said towns, do hereby refuse to rebuild (or repair) said
bridge for want of funds (or as the case may be).

Dated this....day of, 18..

.....,
.....,
.....,

Commissioners of Highways of the Town of.....

.....,
.....,
.....,

Commissioners of Highways of the Town of.....

FORMS FOR HIGHWAY LAW.

Form No. 99. Section 136.

NOTICE OF MOTION.

SUPREME COURT.—.....COUNTY.

IN THE MATTER OF THE APPLICATION OF....., AND
....., CERTAIN FREEHOLDERS OF THE TOWN OF, FOR
AN ORDER REQUIRING THE COMMISSIONERS OF HIGHWAYS OF THE TOWNS
OF..... AND TO REBUILD A JOINT BRIDGE KNOWN AS
THE.....BRIDGE.

To..... and, *Commissioners of Highways of*
the Town of....., in the County of, and,
..... and, Commissioners of Highways of the Town of
....., in the County of.....:

Take notice that, on the affidavits and papers hereto attached, copies of which
are herewith served on you, an application will be made to this court, at a Special
Term thereof, to be held at the court-house, in the.....of....., on
the ...day of....., 18.., at the opening of the court on that day, for an
order requiring you, the said commissioners, to rebuild (or repair) the bridge
mentioned in the affidavit hereto attached, and requiring money to be appropri-
ated or raised therefor, and for such other and further relief as to the court may
seem right.

Dated this....day of, 18..

.....
.....
.....

Form No. 100. Section 136.

AFFIDAVIT FOR AN ORDER TO BUILD A BRIDGE.

SUPREME COURT.— COUNTY OF.....

(Entitled as in Form No. 99.)

COUNTY OF....., }
TOWN OF....., } ss.:

..... and, being severally duly sworn, each
for himself, says that they are freeholders of the town of....., in said
county; that said town joins the town of....., in the county of.....,
and the (name the stream) forms the boundary line between said towns; that at
(describe where) a bridge has been maintained at the joint expense of said
towns, and said towns are jointly liable for the building, rebuilding, repairs and
maintenance of such bridge at such point; that such bridge is (describe the kind of
bridge fully), and has become and is in want of repair (or rebuilding) (describe fully
the condition the bridge is in), and that in our opinion it would be more for the
interests of the said towns to rebuild than to repair said bridge (or as the case
may be); that on the ...day of....., 18.., the above-named affiants
united in a petition to, and, commis-
sioners of highways of the said town of, and,
and, commissioners of highways of the said town of,
pursuant to section 136 of the Highway Law, which petition was duly served on
each of said commissioners, and which requested them to rebuild (or repair) said

FORMS FOR HIGHWAY LAW.

bridge at said point; that thereafter and on the ...day of....., 18...., said commissioners served on us a written refusal as follows: (Here set forth the refusal); that in our opinion a bridge should be built, and that the expense should be between \$. and \$. (approximate the expense as nearly as possible and insert any other facts deemed necessary).

Subscribed and sworn to before me, }
this....day of....., 18.... }

.....
Justice of the Peace

Form No. 101. Section 136.

ORDER OF COURT TO REBUILD BRIDGE.

At a Special Term of the Supreme Court, held at the court-house in the.....
of...., on the ...day of....., 18....

Present—Hon., *Justice*.

(Entitled as in Form No. 99.)

On reading and filing the affidavit of.....and, dated the....day of....., 18...., setting forth that (here set forth the substantial facts of the affidavit), with proof of due service of a copy of said affidavit and notice of motion upon each of the commissioners of highways of said towns, and after hearing, of counsel for said applicants, in favor of said motion, and....., of counsel (or no one appearing), for the said commissioners opposed, and no reference being ordered (or as the case may be), it is hereby ordered, pursuant to section 136 of the Highway Law, that said commissioners build a (here describe the kind of bridge) at (here describe the place), at the joint expense of said towns, not to exceed.....dollars, and that one-half of the said expense shall be chargeable to each of said towns, to be assessed, levied and collected thereon, as other town charges are assessed, levied and collected.

Form No. 102. Section 170.

NOTICE TO OWNER OF LANDS OF APPLICATION FOR A LICENSE FOR A FERRY.

.....COUNTY COURT.

In the Matter of an Application }
for Keeping a Ferry. }

To.....:

Please take notice that the undersigned will apply to the County Court, at a term thereof to be held at....., in the.....of....., on the....day of....., 18...., at the opening of the court on that day, or as soon thereafter as a hearing can be had, for a license to be granted to the undersigned to keep a ferry across the.....river from the termination of the highway running through your land to (give a particular description of the location of the ferry.)

Dated this....day of...., 18....

FORMS FOR HIGHWAY LAW.

Form No. 103. Section 170.

APPLICATION FOR A FERRY BY A PERSON NOT OWNING THE LAND.

(Title same as in Form No. 102.)

To the County Court of County:

The application of, respectfully shows that he is a resident of the town of in said county, and that a ferry ought to be established for the convenience and accommodation of the public across the river at the place where the highway crosses the land of to the said river; and that the said, who is the owner of the land through which the highway runs as aforesaid, has neglected to make application for such license, and due service of the notice of this application has been made upon him, which notice and proof of service are hereto attached. Wherefore, he petitions this court to grant him a license to establish such ferry, pursuant to section 170 of the Highway Law, on compliance with section 171 of said act.

Dated this day of, 18..

.....,

Form No. 104. Section 170.

PROOF OF SERVICE OF NOTICE.

(Title same as in Form No. 102.)

COUNTY OF, }
TOWN OF, } ss.:

....., being duly sworn, says that at the town of, in the county of, on the day of, 18.., he personally served on the annexed notice by delivering to and leaving with him a true copy of the same. And said deponent further says that he knew the person so served as aforesaid to be the person described in the annexed notice.

Subscribed and sworn to before me, }
this day of, 18.. }

.....

.....

Justice of the Peace.

Form No. 105. Section 170.

APPLICATION FOR FERRY BY THE OWNER OF THE LAND.

(Title same as in Form No. 102.)

To the County Court of County:

The application of, of the town of in said county, respectfully shows that he is the owner of the land in said town on the bank of the river through (or near) which the public highway runs, leading from to the said river, and that a ferry ought to be established, for the convenience and accommodation of the public across the said river at the place aforesaid. Wherefore, he hereby applies to the said court to grant him a license to establish such ferry, pursuant to section 170 of the Highway Law, on complying with section 171 of such act.

Dated this day of, 18...

.....

FORMS FOR HIGHWAY LAW.

Form No. 106. Section 170.

LICENSE FOR A FERRY.

(Title same as in Form No. 102.)

At a term of the County Court held at the court-house in the
of on the day of, 18..

Present — Hon., *County Judge.*

WHEREAS,, of the town of, in said county, has made application for a license to keep a ferry across the river at (describe the place) in said town, it is hereby ordered and determined that the license be granted to the said to keep a ferry at the said place in said town for the term of five years from this date, and that he be allowed to collect and receive ferriage for the transportation of persons, goods, wares and merchandise, over and across the said ferry at and after the following rates, and for no greater sum or sums for such transportation, viz.: (give the rates, and also specify the hours that the ferry is to be run.)

Form No. 107. Section 170.

CERTIFICATE OF CLERK INDORSED ON A COPY.

STATE OF NEW YORK, } ss.:
COUNTY OF, }

I do hereby certify that I have compared the within copy of a license with the original this day entered of record in this court, and that the same is a correct copy thereof and of the whole of said original.

In witness whereof, I have hereunto affixed my name and my official seal
[L. s.] this day of, 18..

.....,
Clerk.

Form No. 108. Section 171.

UNDERTAKING.

STATE OF NEW YORK, } ss.:
COUNTY OF, }

WHEREAS, I,, of the town of, in said county, has this day applied to the County Court for a license to keep a ferry on the river, in the town of, in said county.

Now, therefore, we, the said, and, as his surety, do hereby jointly and severally undertake to and with the people of the State of New York, that the said shall faithfully attend such ferry, provided a license be granted as aforesaid, with such sufficient and safe boats and other implements and so many men to work the same, as shall be necessary, during the several hours in each day, and at such rates as said court shall direct.

Dated this day of, 18..

.....
.....
(Acknowledgment, justification, and approval, as in Form No. 1.)
(See Commissioner's bond.)

INDEX TO HIGHWAY LAW.

	Section.
Abatement of tax for removal of fence.....	72
for shade trees	44
for street lamps.....	73
for watering trough	48
Accounts, highway, how made out	12
Act authorizing overseers of highways to acquire gravel for highway purposes, p. 48.	
declaring Ausable river public highway, p. 55.	
to encourage and facilitate draining of agricultural lands, p. 49.	
relating to performance of highway labor in Queens county, p. 55.	
relating to publication, etc., of highway laws, p. 53.	
to authorize bridge companies to lay tracks, etc., p. 55.	
to provide for widening highways, p. 51.	
to repeal chap. 493 of 1892, p. 51.	
Action, audit of damages without.....	18
by town against highway commissioners	17
for injuries to highways	15
Additional highway tax	9
Adjournments of proceedings	123
Annual return of overseers.....	69
tax under change of system	53
Appeal, power of court on.....	141
by non-residents	36
from order of Special Term	140
Appendages for rope ferries	172
Application, decision of commissioners denying.....	88
decision of commissioners in favor of	86
for commissioners.....	83
for private road	106
to alter, discontinue or lay out highway	82
Appointment of commissioners	84
Arrearages for unperformed labor, collection of.....	68
Assessments, certain. to be separate.....	38
for unperformed labor.....	66
of highway labor, how made.....	33

INDEX.

	Section.
Assessment of non-resident lands	32
tenant to deduct.....	39
Assessors, omissions of, corrected	41
Audit of damages without action	18
Auditing expense of auditing repairs of highways or bridges.....	11
Bridge, notice on ..	143
refusal to repair.....	142
when town not liable for breaking	154
Bridges, extraordinary repairs of	10
highway commissioners to institute proceedings on refusal to repair	137
iron	145
joint contracts of towns for	134
joint liabilities of towns for	134
proceeding in court on refusal to repair.....	136
refusal of highway commissioners to repair.....	135
supervisors to levy tax for.....	133
when county expense.....	130
when town expense.....	130
Burying ground, laying out highways through.....	91
Carriages meeting should turn to the right.....	157
owners of, when liable for acts of drivers	161
Certain assessments to be separate ...	38
Certificate of anticipation of sidewalk tax.	46
transfer of	47
Collection of arrearages for unperformed labor	68
Commissioners, application for	83
appointment of	84
decision of, denying application	88
decision of, in favor of application	86
duties of.....	84
notice of meeting of.....	85
of highways, refusal of, to repair bridges.....	195
when do not act	151
Commutation of highway labor.....	62
Compensation of overseers	24
Confirmation of decision	89
of jury as to private road	119
Construction of highway law.....	182
Copies of list of highway labor delivered to overseers.....	34
Copy application and notice for private road to be delivered to applicant.....	108

INDEX.

	Section.
Copy application and notice for private road to be served	108
Costs, by whom paid	92
of new hearing.....	120
on motion.....	152
to be audited	93
County expense, when bridges are.....	130
Credit on private roads.....	37
Custody of stone crushers.....	8
Damages assessed, to be audited	93
audit of, without action	18
in certain cases, how estimated	87
jury to determine and assess	113
to be paid before opening private road.....	117
Decision, confirmation of	89
modification of	89
motion to confirm, vacate or modify	89
of commissioners denying application	88
of commissioners in favor of application	86
vacation of.....	89
Dedication, highways by.....	80
Definition of system of taxation	49
of term "carriages"	162
Difference about improvements	95
Different towns, when officers of, disagree about highways.....	94
Division lines, highways or roads along.....	122
Driving or riding on bridge, penalty for	143
or riding over bridge, offense of	144
Drivers, intemperate, not to be engaged	158
owners of certain carriages liable for acts of	161
when to be discharged.....	159
Duties of commissioners	84
of overseers	20
Duty of highway commissioners	138
Encroachment, how removed.....	105
liability for not removing.....	105
penalty for.....	104
Engines, steam traction, on highways.....	155
Entitled to free use of highways.....	163
Expenses, statement of.....	132
Extraordinary repairs of highways or bridges.....	10
Fallen trees to be removed	103
Falling trees, penalty for.....	102

INDEX.

	Section.
Fees of officers in laying out private road	118
Fence, abatement of tax for removal of	72
to be removed	101
Ferries, appendages for rope.	172
licenses for.	170
undertaking for.	171
Filing of papers in matters of highways and bridges, where.	150
Final determination, how carried out.	98
For what purpose private road to be used	121
General duties of overseers.	20
powers of highway commissioner.	4
Guide-boards and milestones	5
Highways abandoned	99
accounts, how made out	12
actions for injuries to.	15
application to alter, discontinue or lay out	82
by dedication.	80
by use	100
commissioners, action by town against.	17
duty of.	138
general powers of	4
meetings of.	30
powers of one.	3
proceedings in court for refusal of, to repair bridges.	136
reports of.	19
to institute proceedings on refusal to repair bridges	137
to report.	139
treasurer of.	2
discontinued, value of	115
entitled to free use of.	163
extraordinary repairs of	10
injuries to.	153
in two or more towns.	96
labor, assessments of, how made.	33
commutation of	62
copies of list of, delivered to overseers.	34
names omitted from list of.	35
law, construction of	182
when to take effect	183
liability of towns for defective	16
limitations upon laying out.	90
notice to work on.	60

INDEX.

	Section.
Highways, noxious weeds in	70
opening obstructed	21
or roads along division lines	122
steam traction engines on	155
survey of ..	81
tax, additional	9
through burying ground, laying out	91
upon town line, laying out	97
water pipes in	14
when officers of different towns disagree about	94
Horses, leaving, without being tied	160
How obstruction or encroachment removed	105
Implements and road machines	6
and teams	63
Improvements, difference about	95
Inhabitants, lists of	31
Injuries to highways	153
actions for	15
Intemperate drivers not to be engaged	158
Iron bridges	145
Joint contract of towns for bridges	134
liabilities of towns for bridges	134
Jurors, list of	110
Jury, place of meeting of	112
to assess damages for private road	107
to determine and assess damages	113
to determine necessity of private road	107
verdict of	114
Laws repealed	180
Laying out highways through burying ground	91
upon town line	97
Leaving horses without being tied	160
Liability for not removing obstruction or encroachment	105
of towns for defective highways	16
Licenses for ferries	170
Limitations upon laying out highways	90
Lists of inhabitants	31
of jurors	110
names struck off	111
Materials and stone crushers	7
Meetings of commissioners	30
notice of	85

INDEX.

	Section.
Meetings of jury, place of	112
Milestones and guide-boards	5
Modification of decision	89
of jury as to private road	119
Motion, costs on	152
to confirm, vacate or modify decision	89
vacate or modify decision of jury as to private road	119
Names omitted from list of highway labor	35
struck off of jury list	111
Neglect to work or commute, penalties for	65
New assessments by overseers	42
hearing, costs of	120
Non-residents, appeals by	36
lands, assessment of	32
notice to	61
Notice of meeting of commissioners	85
on bridge	143
to non-residents	61
to work on highways	60
Noxious weeds in highway	70
Obstruction, how removed	105
liability for not removing	105
penalty for	104
Occupants, overseers to notify, to remove weeds	71
Offense of riding or driving over bridge	144
Omissions of assessors corrected	41
Opening obstructed highways	21
Order of Special Term, appeals from	140
Overseers, annual return of	69
compensation of	24
copies of list delivered to	34
general duties of	20
new assessments by	42
penalties against	22
penalty for refusal of, to provide list	67
to notify occupants to remove weeds	71
Owners of certain carriages liable for acts of drivers	161
Papers in matter of highways and bridges, where filed	150
to be recorded in the town clerk's office	116
Penalties against overseers	23
for neglect to work or commute	65
how collected	23

INDEX.

	Section.
Penalties, how recovered.....	164
Penalty for falling trees	102
for obstruction or encroachment	104
for refusal of overseer to provide list	67
for riding or driving on bridge	143
Place of meeting of jury	112
Power of court on appeal	141
of highway commissioner	4
of one highway commissioner	3
Private road, application for	106
copy and notice to be served	109
copy application and notice for, to be delivered to applicant.	108
credit on.....	37
damages to be paid before opening	117
fees of officers in laying out	118
for what purpose to be used.....	121
jury to assess damages for	107
jury to determine necessity of	107
motion to confirm, vacate or modify the decision of jury as to.	119
Proceedings, adjournments of	123
in court on refusal to repair bridges.....	136
Public works, superintendent of, may lease right of passage.....	173
Reassessment in case of neglect.....	40
Refusal of commissioners of highways to repair bridges.....	135
of overseer to provide list, penalty for.....	67
to repair bridge.....	142
Removal of fallen trees	103
of fences.....	101
Repairs of bridges, auditing expense of	11
of highways, auditing expense of	11
Reports of commissioners	19
Riding or driving on bridge, penalty for	143
or driving over bridge, offense of	144
Road machines and implements.....	6
or highways along division line	122
Rope ferries, appendages for	172
Saving clause	181
Schedules, when to be posted	174
Shade trees, abatement of tax for.....	44
Short title	1
Sidewalks and trees	43
Sidewalk tax anticipated.....	45

INDEX.

	Section.
Sidewalk tax, certificate of anticipation of	46
transfer of certificate of anticipation of.....	47
Statement of expenses	132
Steam traction engines on highways.....	155
Stone crushers and materials	7
custody of.....	8
Street lamps, abatement of tax for.....	73
Substitute for taxed persons.....	64
Superintendent of public works may lease right of passage.....	173
Supervisors to levy tax for bridges	133
Survey of highway.	81
System of taxation, annual tax under change of	53
defined	49
town may change	50
vote on changing	51
when change to take effect.....	52
Tax, abatement of, for removal of fence	72
for shade trees.....	44
for street lamps.....	73
for watering trough	48
sidewalk, anticipated.....	45
Teams and implements	63
Tenant to deduct assessment.....	39
Term "carriages" defined	162
Toll-bridge, unsafe.....	13
Town, action against highway commissioners	17
clerk's office, papers for laying out highway to be recorded in.	116
expense, when bridges are	130
highway in two or more	96
joint contracts, for bridges.....	134
joint liabilities of, for bridges.....	134
liability of, for defective highways.....	16
line, laying out highway upon.....	97
may change its system of taxation.....	50
when not liable for bridge breaking	154
Transfer of certificate of anticipation of sidewalk tax.....	47
Treasurer of highway commissioners	2
Trees and sidewalks.....	43
to whom they belong.....	156
Undertaking for ferries.....	171
Unperformed labor, assessments for.....	66
collection of arrearages for.....	68

INDEX.

	Section.
Unsafe toll-bridge	13
Vacation of decision	89
of jury as to private road	119
Value of highway discontinued	115
Verdict of jury	114
Vote on changing system of taxation	51
Water pipes in highways	14
trough, abatement of tax for	48
Weeds in highway	70
overseers to notify occupants to remove	71
When bridges town or county expense	130
commissioners do not act	151
officers of different towns disagree about highway	94
schedules to be posted	174
town not liable for bridge breaking	154
Work, notice to, on highway	60

Index to Provisions and Forms relating to Duties and Liabilities of Inspectors, Ballot-Clerks, Poll-Clerks and Registrars.

	SEC.	PAGE.
Inspectors of elections in cities :		
absences and vacancies at meetings, filling of	14	.....
appointment of.....	12	.....
oath of appointed or designated inspectors	14	.....
oath, form of, No. 18.....	....	140
form of, for appointed or designated inspectors, Nos. 21, 22, 23, 26.....	....	142
vacancies in office of	14	.....
Inspectors of elections in towns :		
absences and vacancies at meetings, filling of	14	.....
accounts, form for, No. 27.....	....	144
appointment of additional inspector .....	....	138
form for, No. 18.....	....	140
appointment, to fill vacancies.....	14	.....
to fill vacancies, form for, Nos. 21, 22, 23, 26.....	...	142
compensation of.....	18	.....
compensation, bills, form for, No. 27.....	....	144
election of .....	....	184
election law to each.....	19	.....
oath of office of	18	.....
oath of office, form for, Nos. 11, 18.....	....	140
term of office of .....	....	180
vacancies, filling of, by town board.....	...	127
Registration of voters :		
challenge of applicant, duty as to	84	.....
challenge, registry of	84, 108	.....
compensation of.....	18	.....
furniture for places of registry.....	10	.....
meetings for registry	80	.....
misconduct of, penalty	41c	162
naturalization papers, presenting fraudulent, to.....	41y	168
places for registry.....	10	.....
penalty for false registry	41a	162
mutilation, etc., registry lists.....	41b	162

Inspectors of elections in towns — (Continued) :		SEC.	PAGE.
poll-lists and registers, delivery of, previous to	85	..	..
publication of places for holding.	10	..	..
register of voters, addition and cancellation of names on..	81	.....
certificates to, to attach	85	.....
copies of, to make	85	.....
custody of, lists	85	.....
posting of lists, by	85	.....
preparations of, instructions for	83	.....
preparation of, by	83	.....
registry, condition of voting	104	.....
Saturday half-holidays	84	.....
when applicant's name must be added to list of voters....	81	.....
when his name shall not be placed on list	81	.....
who may register.	127	.....
 Inspectors of elections, general provisions relating to:			
<i>At elections :</i>			
acting as, without being qualified	41k		163
adjournment or intermissions prohibited	8	.....
ballot clerks, appointment of, by	12	.....
boxes, placing of unauthorized matter in, prohibited..	100	.....
unlocking and relocking, by	100	.....
ballots, counting of, by	110	.....
delivery of, to voters	104	.....
distribution of, by, at polls	104	.....
exhibition of, to watchers	110	.....
receipts for	87	.....
receipts for, form of, No. 14 .....	...		139
unofficial, when may be voted	89	.....
within rail, to be, at opening of polls	101	.....
board of inspectors, organization of	14	.....
chairman of board	14	.....
challenges, duty in case of	108	.....
memorandum of	84	.....
challenges, oaths on	84	.....
form of, Nos. 81, 44, 45 .....	...		147, 159
registry of	84, 108	.....
when, may be made	88, 108	.....
checking of names by	108	.....
delivery and filing of papers relating to the election	118	.....
disabled voters, to administer oath to	104	.....
false canvass, felony to make....	41n		164
guard-rail, who admitted within	101	.....
meeting of	100	.....
names of candidates for, how printed on ballot	81	.....
opening of polls by	100	.....
proclamation of	100	.....

INDEX.

v

Inspectors of elections, general provisions relating to—

(Continued):

	SEC.	PAGE.
order at election, to preserve.....	15	.....
appointment of officers by, to preserve	15	.....
penalty for disobeying.....	41k	168
permitting persons not entitled to vote, penalty for.....	41k	168
position of, within inclosed space	100	.....
poll clerk, appointment of, by	12	.....
polls, opening and closing of, time for	8	.....
opening of	8	.....
proclamation of	100	.....
proclamation of result of canvass.....	112	.....
register of voters, check-marks upon, upon voting....	108	.....
entries upon, by, upon delivery of ballots	108	.. ..
to have original at elections	100	.....
to continue in office for purpose of mandamus proceedings.	114	.....
to deliver copy of Election Law to successor.....	19	.....
vacancies at meetings, filling of ..	14	.....
vote, canvassing of.....	110	.....
voting, manner of	106	.....
when appointed on division of town or ward into election districts .	8	.....
election of, after division of town or ward into election districts.....	8	.....
 <i>Canvass of votes by :</i>		
adjournment of canvass, prohibited.....	110	.....
ballots, destruction of	110	.....
excess to be withdrawn.....	110	.....
exhibition of, to watcher	110	.....
folded together, when destroyed	110	.....
in wrong box, not to be rejected	110	.....
objected to, to be marked	110	.....
without official indorsement, not to be counted.....	110	.....
comparison of poll-lists.....	110	.....
mode of conducting	110	.....
when to be made	110	.....
powers and duties of, in canvassing.....	110	.....
proclamation of result.....	112	.....
form for, No. 48.....	156	.....
 <i>Statement of result of canvass :</i>		
certificate thereto.....	111	.....
certified copies to be made	111	.....
correction of errors in	182	.....
delivery of, to assessors	118	.....
to supervisors	118	.....

Inspectors of elections, general provisions relating to—*(Continued):*

	SUB.	PAGE.
false returns, penalty for making	41n	164
form of, No. 47.....	...	158
<i>Ballot clerks:</i>		
absence of.....	12	.....
acting as, without being qualified, penalty for.....	41k	163
announcement by, on delivery of ballots	103	.....
on return of ballots.....	103	.....
appointment of	12	.....
form for, Nos. 10, 24.....	....	137, 143
ballots, delivery of, regulated.....	103	.....
order of.....	103	.....
placed in charge of.....	103	.....
returned, to preserve and cancel	103	.....
spoiled, replacing of, by	103	.....
unvoted, delivery and return of, to inspectors	103	.....
compensation of.....	18	.....
duties of, general	103	.....
oath of office of	12	.....
oath, form for, No. 12 .....	....	138
opening of polls, to be present at.	100	.....
position of, within inclosed space	100	.....
qualifications of.....	11, 12	.....
sample ballot, to receive	100	.....
statement by, of ballots delivered, returned, etc	103	.....
form for, No. 13.....	...	138
stubs, detached, delivered to.....	103	.....
return of, to inspectors	103	.....
preservation of, by	103	.....
term of office of.....	18	.....
vacancies in office of	14	.....
form of filling, No. 25 .....	....	143

Poll-clerks:

acting as such without being qualified	41k	163
appointment of.....	11, 12	.....
form of, Nos. 25, 26.....	....	143
compensation of.....	18	.....
in towns .....	....	137
form of bill, No. 27.....	....	144
duties of	103	.....
oath of office of	12	.....
form of, No. 12.....	....	138
position of, within inclosed space	100	.....
qualifications of.....	12	.....
term of office of.....	11	.....
to be present at opening of polls.....	100	.....

Poll-clerks — (Continued) :

	ENO.	PAGE.
to have poll-list books present at opening of polls.	100	.....
vacancies in, how filled.....	14	.....

Forms:

appointment of additional inspector, No. 17	140
by inspectors, of inspector to fill vacancy, No. 20.....	143
of poll and ballot clerks, No. 24.....	143
of same to fill vacancy, No. 25	143
ballot, form of, No. 50.....	161
ballot returns, No. 35	150
bill for compensation, No. 27.....	144
certificate of appointment of ballot clerks, No. 10.....	137
certificate of registration, Nos. 82, 83.....	148, 149
deputation to be written on back of precept in case no sheriff or constable is present, No. 41.....	155
designation, by inspectors, of elector to act as an inspector, No. 21	143
by electors, to fill vacancy, No. 22.....	143
of persons to act as inspectors, No. 23	142
of person to act in place of absent poll or ballot clerk, No. 26	143
diagram of room, No. 49.....	160
inspectors' return and statement of canvass, No. 36.....	151
memorandum of challenges, No. 46	160
nomination, convention certificate of, Nos. 1, 4.....	181, 184
party committee certificate of, No. 2.....	182
independent certificate of, No. 8.....	183
certificate for ward, No. 5	185
list of, to be published, No. 7	186
to be posted, No. 8.....	187
declination of, No. 9.....	187
printed poster or list, No. 6	186
oaths and examination on challenges for registry, No. 31..	147
on challenges for voting, Nos. 44, 45	156, 159
oath of office for inspectors, No. 18.....	140
of election officers before opening of polls, No. 16.....	139
for poll and ballot clerks, No. 12	188
to be administered in case of physical disability, No. 15.....	189
order of town board, appointing inspector to fill vacancy, No. 19	141
poll book, page of, No. 43.....	156
proclamation of result, No. 43	156
of opening of polls, No. 39.....	146
precept in case of disorderly conduct, in presence and hearing of inspectors, No. 42	155

Forms — (Continued):

	SEQ.	PAGE.
of refusal to obey lawful commands of inspectors, No. 40	154
receipt of inspectors, for official ballots, No. 14.....	139
of town or city clerk, No. 18	188
registry board certificate for districts in cities, No. 28.....	187
outside of cities, No. 29.....	188
report of assisted and challenged electors, No. 33.....	154
return of ballots voted.....	153
statement and return of votes for office, No. 37.....	152
statement of canvass, No. 47.....	158
tally sheet, No. 34..	150

THE ELECTION LAW.

As amended to the commencement of the session of 1897.

L. 1896, ch. 909 — An act in relation to the elections, constituting chapter six of the general laws.

[Became a law May 27, 1896, taking effect June 16, 1896.]

CHAPTER VI OF THE GENERAL LAWS.

The Election Law.

- Article** I. Times, places, notices, officers and expenses of elections. (Sections 1 to 19.)
- II. Registration of electors. (Sections 30 to 36.)
- III. Primaries, conventions and nominations. (Sections 50 to 66.)
- IV. Official and sample ballots, instruction cards and stationery. (Sections 80 to 89.)
- V. The conduct of elections. (Sections 100 to 114.)
- VI. County and state boards of canvassers. (Sections 130 to 141.)
- VII. Electors of president and vice-president and representatives in congress. (Sections 160 to 167.)

ARTICLE I.

Times, Places, Notices, Officers and Expenses of Elections.

- Section** 1. Short title.
2. Date of general election.
3. Time of opening and closing polls.
4. Filling vacancies in elective offices.
5. Notice of elections.
6. Notice of submission of proposed constitutional amendments or other propositions or questions.
7. Publication of concurrent resolutions, proposed constitutional amendments and other propositions.
8. Creation, division and alteration of election districts.
9. Maps and certificates of boundaries of election districts.

Section 10. Designation of places for registry and voting.

11. Election officers; designation, number and qualifications.
12. Appointment and qualification of election officers in cities.
13. Election officers in towns.
14. Organization of boards of inspectors; supplying vacancies and absences.
15. Preservation of order by inspectors.
16. Ballot boxes.
17. Voting booths and guard-rails.
18. Payment of election expenses.
19. Delivery of election laws to clerks, boards and election officers.

Section 1. Short title.—This chapter shall be known as the election law.

These sections of the Election Law seem to confine its scope and application to general elections and special elections to fill vacancies in office. *Matter of Taylor* (Sup. Ct., 2 D., 1896), 3 App. Div. 244.

The Election Law does not apply to an election held to determine the question of the incorporation of a proposed village. *Id.* Such an election is properly conducted under the general act for the incorporation of villages. (Chap. 291 of 1870.) *Id.*

§ 2. Date of general election.—A general election shall be held annually on the Tuesday next succeeding the first Monday in November.

§ 3. Time of opening and closing polls.—The polls of every general election, and, unless otherwise provided by law, of every other election shall open at six o'clock in the forenoon and shall close at five o'clock in the afternoon. There shall be no adjournment or intermission until the polls are closed.

The rules prescribed by statute for the conduct of elections are directory, not jurisdictional, in their character. *People v. Cook*, 8 N. Y. 67. The provision of the statute as to the time of opening and closing the polls is directory. *Id.*

The provision of the Election Law that the polls shall close at four o'clock was held, in *Matter of Smith*, 18 N. Y. State Repr. 785, to be constitutional and legal, and a mandamus will not lie extending the time, though asked for the purpose of preventing lawful voters from being cut off from their right to vote. The provision was held to mean, not the closing of the polling place, but of the polling of votes, and, though citizens may be in line ready to vote at four o'clock, their votes can not be received after that time.

§ 4. Filling vacancies in elective offices.—A vacancy occurring before October fifteenth of any year in any office authorized to be filled at a general election, shall be filled at the general election held next thereafter, unless otherwise provided by the constitution, or unless previously filled at a special election. Upon the failure to elect to any office, except that of governor or lieutenant-governor, at a general or special election, at which such office is authorized to be filled, or upon the death or disqualification of a person elected to office before the commencement of his official term; or upon the occurrence of a vacancy in any elective office which can not be filled by appointment for a period extending to or beyond the next general election at which a person may be elected thereto, the governor shall make proclamation of a special election to fill such office, specifying the district or county in which the election is to be held, and the day thereof, which shall be not less than twenty nor more than forty days from the date of the proclamation. A special election shall not be held to fill a vacancy in the office of a representative in congress unless such vacancy occurs on or before the first day of July of the last year of the term of office, or unless it occurs thereafter and a special session of congress is called to meet before the next general election, or be called after October fourteenth of such year; nor to fill a vacancy in the office of state senator, unless the vacancy occurs before the first day of April of the last year of the term of office; nor to fill a vacancy in the office of a member of assembly, unless occurring before the first day of April in any year, unless the vacancy occurs in either such office of senator or member of assembly after such first day of April and a special session of the legislature be called to meet between such first day of April and the next general election or be called after October fourteenth in such year. If a special election to fill an office shall not be held as required by law, the office shall be filled at the next general election.

§ 5. Notices of elections by secretary of state and county clerk.—The secretary of state shall, at least three months before each general election, make and transmit to the county clerk of each county, the board of police commissioners of the city of New York and the board of elections of the city of Brooklyn, a notice under his hand and official seal, stating the day upon which such election shall be held, and stating each officer, except city, village and town officers, who may be lawfully voted for

at such election by the electors of such county or any part thereof. If any such officer is to be elected to fill a vacancy, the notice shall so state. The secretary of state shall forthwith, upon the filing in his office of the governor's proclamation ordering a special election, make and transmit to each county clerk, the board of police commissioners of the city of New York and the board of elections of the city of Brooklyn, a like notice of the officers to be voted for at such special election in such county or any part thereof, and cause such proclamation to be published in the two newspapers published in such county having the largest circulation therein, at least once a week until such election shall be held. Each county clerk shall forthwith, upon the receipt of either such notice, file and record it in his office, and shall cause a copy of such notice to be published once in each week until the election therein specified in the newspapers designated to publish election notices. He shall also publish as a part of such notice, each city, village and town officer who may lawfully be voted for at such election by the electors of such county or any part thereof.

§ 6. Notice of submission of proposed constitutional amendments or other propositions or questions.— Every amendment to the constitution proposed by the legislature, unless otherwise provided by law, shall be submitted to the people for approval at the next general election, after action by the legislature in accordance with the constitution; and whenever any such proposed amendment to the constitution or other proposition, or question provided by law to be submitted to a popular vote, shall be submitted to the people for their approval, the secretary of state shall include in his notice to the county clerk, the board of police commissioners of the city of New York, and the board of elections of the city of Brooklyn, of the general election, a copy of such amendment, proposition or question, and if more than one such amendment, proposition or question is to be voted upon at such election, such amendment, proposition or question, respectively, shall be separately and consecutively numbered. If such amendment, proposition or question is to be submitted at a special election, the secretary of state shall, at least twenty days before the election, make and transmit to each county clerk, the board of police commissioners of the city of New York, and the board of elections of the city of Brooklyn, a like notice. Each county clerk shall, forthwith upon the receipt of such notice, file and record it in his office, and shall cause a copy

of such notice to be published once each week until the election therein specified, in the newspapers designated to publish election notices.

§ 7. **Publication of concurrent resolutions, proposed constitutional amendments and other propositions.**—The secretary of state shall cause each concurrent resolution of the two houses of the legislature, agreeing to a proposed amendment to the constitution, which is referred to the legislature to be chosen at the next general election of senators, to be published once a week for three months next preceding such election, in two newspapers published in each county, representing the two political parties polling the highest number of votes at the then last preceding general election, and in one additional newspaper published in each county for every one hundred thousand people in such county, as shown by the then last preceding federal or state enumeration. Such additional newspapers shall be selected by the secretary of state with reference to making such publication in newspapers having the largest circulation in the county in which they are published. If such resolution does not state that such proposed amendment is so referred to such legislature, the secretary of state shall publish, in connection with the publication of such concurrent resolution, a statement that such amendment is referred to the legislature to be chosen at the next general election. The secretary of state shall cause such proposed amendment to the constitution or other proposition or question, which is by law to be submitted to the electors of the state at a general or special election, to be published for a like period before such election in newspapers selected in like manner, together with a brief statement of the law or proceedings authorizing such submission, the fact that such submission will be made and the reading form in which it is to be submitted. If such proposed amendment or other proposition or question is to be submitted at a special election, to be held less than three months from the time of appointing it, the first publication in each newspaper shall be made as soon as practicable after such appointment, and shall continue once in each week to the time of the election.

§ 8. **Creation, division and alteration of election districts.**—Every town or ward of a city not subdivided into election districts shall be an election district. The town board of every town containing more than four hundred electors, and the common council of every city except New York and Brooklyn, in

which there shall be a ward containing more than four hundred electors, shall, on or before the first day of July in each year, whenever necessary so to do, divide such town or ward respectively into election districts, each of which shall be compact in form, wholly within the town or ward, and shall contain respectively as near as may be, four hundred electors, but no such town or ward shall be again divided into election districts until, at some general election, the number of votes cast in one or more districts thereof shall exceed six hundred; and in such a case the redivision shall apply only to the town or ward in which such district is situated. If any part of a city shall be within a town, the town board shall divide into election districts only that part of the town which is outside of the city. No election district including any part of a city shall include any part of a town outside of a city. A town or a ward of a city containing less than four hundred electors may, at least thirty days before the election or appointment (where appointment is directed to be made by law) of inspectors of election of such town or ward, be divided into election districts by the board or other body charged with such duty when, in the judgment of such board or body, the convenience of the electors shall be promoted thereby. The creation, division or alteration of an election district outside of a city shall take effect immediately after the next town meeting, and at such next town meeting inspectors of election shall be elected for each election district as constituted by such creation, division or alteration. If the creation, division or alteration of an election district is rendered necessary by the creation or alteration of a town, or ward of a city, it shall take effect immediately, but a new town or ward shall not be created, and no new town or ward shall be subdivided into election districts between the first day of August of any year, and the day of the general election next thereafter. If inspectors are not elected or appointed for such district outside of a city before September the first next thereafter, the town board of the town shall appoint four inspectors of election for such district. On or before the first day of July in the year eighteen hundred and ninety-seven the board of police commissioners of the city of New York and the board of elections of the city of Brooklyn, shall divide such cities respectively into election districts upon the basis of the registration of electors for the general election held in such cities in the year eighteen hundred and ninety-six. Each such election district so established shall contain as near as may be

four hundred electors. Each election district shall be compact in form, and in the city of New York, wholly within one assembly district, and in the city of Brooklyn, wholly within one ward. No election district shall contain portions of two congressional or assembly districts. Such election districts so established shall not again be changed until at some general election for the office of governor, the number of registered voters therein shall exceed six hundred, except where changes are made necessary by a change in the boundaries of congressional or assembly districts or ward lines, provided, however, that when the number of registered voters in any election district shall, for two consecutive years, be less than two hundred and fifty, such district may be consolidated with contiguous election districts in the discretion of such boards respectively. If a town shall include a city, or a portion of a city, only such election districts as are wholly outside of the city shall be deemed election districts of the town, except for the purpose of town meetings.

§ 9. Maps and certificates of boundaries of election districts.—When a ward of a city or an assembly district within a city shall be divided into two or more election districts, the officers or board creating, dividing or altering such election districts, shall forthwith make a map or description of such division, defining it by known boundaries, and cause such map or description to be kept open for public inspection in the office of the city clerk, and cause copies thereof to be posted not less than ten days prior to the first day of registration in each year, in at least ten of the most public places in each election district so created, divided or altered, and shall, prior to every election, furnish copies of such map or description to the inspectors of election in each election district of such ward or assembly district. The officers creating, dividing or altering an election district in a town shall forthwith make a certificate or map thereof, exhibiting the districts so created, divided or altered, and their numbers respectively, and file the same in the county clerk's office, and a copy thereof in the town clerk's office, and cause copies of the same to be posted in at least five of the most public places in each election district of such town, and the county clerk shall, prior to every general election, furnish copies of such maps or certificates to the inspectors of election in each election district of such town, provided such election district is not coterminous with the town lines.

§ 10. Designation of places for registry and voting, publication of same; and provision of furniture therefor.— On the first Tuesday of September in each year, the town board of each town, and the common council of each city, except New York and Brooklyn, the board of police commissioners of the city of New York and the board of elections of the city of Brooklyn, shall designate the place in each election district in the city or town at which the meeting for the registration of electors and the election shall be held during the year. Each room so designated shall be of a reasonable size, sufficient to admit and comfortably accommodate at least ten electors at a time outside of the guard rails. No building, or part of a building, shall be so designated in any city if within thirty days before such designation, intoxicating liquors, ale or beer, shall have been sold in any part thereof. No room shall be so designated elsewhere than in a city, if within thirty days before such designation intoxicating liquors, ale or beer, shall have been sold in such room, or in a room adjoining thereto, with a door or passageway between the two rooms. No intoxicating liquors, ale or beer shall be sold in such building in a city or such room or adjoining room elsewhere after such designation and before the general election next thereafter, or be allowed in any room in which an election is held during the day of the election or the canvass of the votes. Any person or persons violating the provisions of this section shall be deemed guilty of a misdemeanor. If any place so designated shall thereafter and before the close of the election be destroyed, or for any reason become unfit for use, or cannot for any reason be used for such purpose, the officers charged with the designation of a place for such election shall forthwith designate some other suitable place for holding such election. Not more than one polling place shall be in the same room, and not more than two polling places shall be in the same building. The officers authorized to designate such places in any town or city, shall provide for each polling place at such election, the necessary ballot and other boxes, guard rails, voting booths and supplies therein, and the other furniture of such polling place, necessary for the lawful conduct of each election thereat, shall preserve the same when not in use, and shall deliver all such ballot and other boxes for each polling place, with the keys thereof, to the inspectors of election of each election district at least one-half hour before the opening of the polls at

each election. The officers authorized to designate the registration and polling places in any city shall cause to be published in two newspapers within such city a list of such places so designated, and the boundaries of each election district in which such registration and polling place is located except that in the city of Brooklyn such publication shall be made in the newspapers designated as corporation newspapers for said city. Such publication shall be made in the newspapers so selected upon each day of registration and the day of election, and on the day prior to each such days. One of such newspapers so selected shall be one which advocates the principles of the political party polling the highest number of votes in the state at the last preceding election for governor, and the other newspaper so designated shall be one which advocates the principles of the political party polling the next highest number of votes for governor at said election.

§ 11. Election officers; designation, number and qualifications. — There shall be in every election district of this state the following election officers, namely, four inspectors, two poll clerks and two ballot clerks, whose term of office shall be for one year from the date of their appointment or election, and who shall serve at every general or special election held within their districts during such term. No person shall be appointed or elected an inspector of election, poll clerk or ballot clerk who is not a qualified elector of the city, or of the election district of the town in which he is to serve, of good character, able to read and speak the English language understandingly, and to write it legibly, or who is a candidate for any office to be voted for by the electors of the district in which he is to serve; or, who has been convicted of a felony, or who holds any public office or place of public trust, except notary public or commissioner of deeds, whether elected or appointed, or who is employed in any public office or by any public officer whose services are paid for out of the public moneys, or any person who is appointed or elected to, or accepts public office, or such employment therein or by any public officer. Each class of such officers shall be equally divided between the two political parties, which, at the last preceding election for governor, polled the highest and next highest number of votes for such office in the state.

Where, under the provisions of chapter 7 of 1891, two inspectors of election were elected, and one appointed in one of the election districts

of the city of Rochester, at the charter election in March, 1892, and at their first meeting in October of the same year, they appointed a poll clerk of this district to serve, and who did serve as such, at the general election held in the following November, the poll clerk in question was held to have been duly appointed under this section and section 14 of the Public Officers Law. *Howe v. The City of Rochester*, 86 Hun, 3.

§ 12. Appointment and qualifications of election officers in cities. — Subdivision 1. On or before the first day of October in each year, the board of police commissioners of the city of New York, the board of elections of the city of Brooklyn, and the mayor of each other city, shall select and appoint the election officers for each election district in their respective cities; and shall severally have the power to fill all vacancies which may arise before the opening of the polls on election day. To insure the bipartisan character of such board or body of election officers required by the election law, each political party entitled to representation in such board or body shall have the right, not later than the first day of August in each year, to prepare and file with the board or officer empowered to make the appointment, as herein provided, a list of persons, members of such party, duly qualified to serve as election officers. In the cities of New York and Brooklyn such list shall be authenticated and filed by the chairman of the executive committee of the general city or county committee of the party; in other cities, by the chairman and secretary of the general, city or county committee of such party, if there be such a committee, or, if not, then by the corresponding officers (by whatever name known) of any committee performing the usual functions of a city or county committee; provided, however, that if in any city more than one such list be submitted in the name or on behalf of the same political party, only that list shall be accepted which is authenticated by the proper officer or officers of the faction or section of such party, which was recognized as regular by the last preceding state convention of such party; or, where no such convention has been held within the year, by the proper officer of the faction or section of said party which, at the time of the filing of said list, is recognized as regular by the state committee of such party, which was organized by or pursuant to the direction of the last preceding state convention of such party. All persons so proposed for appointment may be examined as to their qualifications by or under the direction of the board or officer charged with the duty of making the appointment; and if found

duly qualified they shall be appointed to the respective positions for which they were recommended. If any of them are found disqualified, notice in writing of that fact shall be promptly given to the person or persons by whom the list embracing their names was authenticated, and he or they shall have the right within ten days after the personal delivery or mailing to him or them of such notice, to file a supplemental list proposing the name of suitable members of his or their party for appointment in lieu of those thus rejected; provided, however, that the substitutes thus proposed shall also be subject to examination and rejection if found disqualified. If either party entitled to propose election officers, as herein provided, shall fail to authenticate and file such a list on or before the first day of August, or if any of the persons named therein shall be found disqualified, or if no supplemental list be filed, as herein provided, or if one or more persons named in such supplemental list be found disqualified, then such board or officer shall proceed to select in such manner as may seem to them or him feasible from the members of the party or parties in default, or whose nominees have been found disqualified, and shall appoint suitable persons to act as election officers. In the cities of New York and Brooklyn, the two members of the respective boards charged with the duty of appointing election officers, who represent the same political party, shall have the exclusive right and be charged with the exclusive duty of selecting from the list submitted, or in lieu of persons named on such list who shall have been found disqualified, the members of such party who are to be appointed as election officers. Every person appointed as an election officer shall, within five days after notice of his appointment, take and subscribe the constitutional and statutory oaths of office, which shall be administered, if in the city of New York by the chief of the bureau of elections, or the chief clerk of said bureau; if in the city of Brooklyn, by any member of the board of elections of said city, or any clerk or clerks designated by said board for that purpose; and if in any other city, by the mayor thereof, or by any person or persons designated by him for that purpose; and all of said officers, and every clerk or person so designated by them or him for that purpose, shall be and is hereby authorized and empowered to administer such oaths. Every person so sworn as an election officer shall receive a certificate of appointment and qualification, signed by the person who administered

the oath, in such form as may be approved by the board or officer by which or whom he was appointed, and specifying the capacity and the election district in which he is to serve, and the date of the expiration of his term of office. Any election officer so appointed may be removed for cause, in which case such removal, unless made while such officer is actually on duty on the day of registration, revision of registration or election, and for improper conduct as an election officer, shall only be made after notice in writing to the officer to be removed, which notice shall set forth clearly and distinctly the reason for his removal. Any election officer who shall at any time be appointed to fill a vacancy, which fact shall be stated in the certificate of appointment, shall hold office only during the unexpired term of his predecessor, and provided that no election officer shall be transferred from one election district to another after he has entered upon the performance of his duties. The chairman of each board of inspectors of each election district shall, within twenty-four hours after any election, furnish to the mayor or board appointing such officers, if required so to do by such mayor or board, under his hand, a certificate stating the number of days of actual service of each member of such board, the names of the persons who served as poll clerks and ballot clerks on election day, and the number of days during which the store or building hired for registration and voting purposes was actually used for such purposes. Any person acting as such chairman, who shall willfully make a false certificate, shall be deemed guilty of a misdemeanor. Every person appointed as an election officer, failing to take and subscribe the oath of office as hereinbefore provided, or who shall willfully neglect or refuse to discharge the duties to which he was appointed, shall, in addition to the other penalties prescribed by law, be liable to a fine of one hundred dollars, to be sued for and recovered by the mayor or board making the appointment in a court of record, for the use and benefit of the treasury of such city. Any election officer who, being removed for cause, shall fail upon demand to deliver over to his successor the register of electors, or any tally sheets, book, paper, memorandum or document relating to the election in his possession, so far as he has made it, shall be liable to a like penalty to be recovered in a like manner for the benefit of such city. All persons appointed and serving as election officers in cities of the first class shall be exempt from jury duty for one year from the date of the general election at which they serve.

Inspectors of election and poll clerks, in the city of New York, are to be selected from the two great political parties of the State, without regard to differences of opinion in the choice of local offices, or the fact that one of the divisions of a party refuses to support a particular candidate on the State ticket. *People v. Wheeler*, 18 Hun, 540.

The failure of the board of police commissioners in the city of New York to make an appointment of inspectors of elections, within the time prescribed by chap. 490 of 1887, does not deprive the board of the power to make it thereafter in the absence of a prohibition in the statute. *People ex rel. McMackin v. Board, etc.*, 46 Hun, 296.

It is sufficient to constitute inspectors officers de facto if they come into office by color of title. *People v. Cook*, 14 Barb. 259. Their omission to take the oath of office will not invalidate the election. *Id.*; 8 N. Y. 67. Neither does an irregular administration of the oath. *Id.*

An inspector who becomes a candidate for office, vacates his office of inspector. *People v. McManus*, 34 Barb. 620; 22 How. 25.

The provisions of the revised charter of Buffalo (chap. 105 of 1891), relating to the inspectors of election in that city, are not repealed, impaired or affected by chap. 7 of 1891, or chap. 680 of 1892, but still remain in full force. *People ex rel. Emerson v. Board, etc.*, 47 N. Y. State Rep. 451; 65 Hun, 300.

These provisions are capable of enforcement by mandamus against the board of aldermen as the successors of the common council which failed to comply therewith, by declaring the relator elected as one of the inspectors. *Id.*

By section 12 of the Election Law of 1892, it was provided, in effect, that where the inspectors were appointed by the common council, the same authority should appoint the poll and ballot clerks; but where inspectors were elected, they should appoint the clerks. *Howe v. City of Rochester* (Sup. Ct., 5 D., 1895), 86 Hun, 3. The inspectors of elections in the city of Rochester, elected in March, 1892, under the act of 1891, were authorized to appoint the poll clerks at the general election in November, 1892. *Id.*

§ 13. Election officers in towns.—Inspectors of election in towns shall be elected and appointed as provided in section nineteen of the town law. At the first meeting of the inspectors of election in every district in which the law provides for the election of inspectors, the inspectors elected shall appoint one of the poll clerks and one of the ballot clerks, and the inspectors appointed shall appoint the other poll clerk and ballot clerk. Such appointments shall be in writing, signed by the inspectors making the appointments respectively, and shall be filed by them with the town clerk of the town in which such election district is situated. The poll clerks and ballot clerks so appointed shall

hold their office during the term of office of the inspectors appointing them, except as hereafter provided. The persons so appointed as poll clerks and ballot clerks shall be voters in the district in which they are appointed to serve, and shall possess the qualifications required of such officers by section eleven of this act. If at any time of any election at which poll clerks and ballot clerks are required to be present at the polling place in any election district, the office of a poll clerk or of a ballot clerk of such district shall be vacant, or a poll clerk or ballot clerk shall be absent, the inspectors of election in such district shall forthwith appoint a person to fill such vacancy. Such person so appointed shall, before he acts as such poll clerk or ballot clerk, take the constitutional and statutory oaths of office.

§ 14. **Organization of boards of inspectors ; supplying vacancies and absences.**— Before otherwise entering upon their duties, the inspectors of each district shall meet and appoint one of their number chairman; or, if a majority shall not agree upon such appointment, they shall draw lots for that position. If at the time of any meeting of the inspectors there shall be a vacancy in the office of any inspector, or if any inspectors shall be absent from any such meeting, the inspector or inspectors present shall appoint a qualified elector of the district, who shall be a member of the same political party as the absent inspector, to act until such absent inspector, or his successor duly appointed under the provisions of section twelve, shall appear, and such person, if so serving temporarily, shall serve without pay. If, at any such time, the offices of all inspectors are vacant, or no inspector shall appear within one hour after the time fixed by law for the opening of such meeting, the qualified voters of the district present, not less than ten, may designate four qualified electors of the district belonging to the political parties as specified in section eleven, to fill such vacancies, or to act in the place of such inspectors respectively, until the absent inspectors respectively appear. If at any time there shall be a vacancy in the office of any poll clerk or ballot clerk, or if any poll clerk or ballot clerk shall be absent from such meeting, the inspector or inspectors present shall appoint a qualified elector of the district, who shall be a member of the same political party as the absent poll clerk or ballot clerk to fill such vacancy. Every person so appointed or designated to act as an inspector, poll clerk or ballot clerk shall take the constitutional and statutory oaths as prescribed by the election law.

§ 15. **Preservation of order by inspectors.**—All meetings of the board of inspectors shall be public. Such board and each individual member thereof shall have full authority to preserve peace and good order at such meetings, and around the polls of elections, and to keep the access thereto unobstructed, and to enforce obedience to their lawful commands. The said board may appoint one or more electors to communicate their orders and directions, and to assist in the performance of their duties in this section enjoined. If any person shall refuse to obey the lawful commands of the inspectors, or by disorderly conduct in their presence or hearing shall interrupt or disturb their proceedings, they shall make an order directing the sheriff or any constable of the county, or any peace or police officer to take the person so offending into custody, and retain him until the registration of electors, or the canvass of the votes shall be completed, but such order shall not prohibit the person taken into custody from voting. Such order shall be executed by any sheriff, constable, peace or police officer, to whom the same shall be delivered. But if none shall be present, then by any other person deputed by such board in writing. The said board or any member thereof, may order the arrest of any person other than an election officer violating or attempting to violate, any of the provisions of this election law.

The inspectors of election have a right to keep order while the vote is being canvassed. *Horton v. Whistler*, 4 N. Y. State Repr. 810. But, under pretense of keeping order, they have no right to turn out a peaceable and quiet citizen whose presence does not interfere with the discharge of their duty. *Id.*

§ 16. **Ballot boxes.**—There shall be but one ballot box at each polling place for receiving all ballots cast for candidates for office, which box shall be conspicuously marked "Box for general ballots." There shall also be a ballot box for the reception of ballots found to be defective in printing, or mutilated before delivery to electors, and for ballots spoiled and returned by electors, which box shall be conspicuously marked "Box for spoiled and mutilated ballots." There shall also be a box for detached ballot stubs, which box shall be conspicuously marked, "Box for detached ballot stubs." If proposed constitutional amendments, or other propositions or questions may lawfully be voted upon thereat, there shall be a separate ballot box at each polling place for the reception of ballots upon

such amendments or propositions, or questions, which box shall be marked conspicuously, "Box for questions submitted." Each box used for the reception of voted ballots shall be provided with a sufficient lock and key, and with an opening in the top thereof large enough, and not larger than may be necessary to allow a single folded ballot to be easily passed through such opening into the box. Each box shall be large enough to properly receive and hold all ballots which may lawfully be deposited therein at any election.

§ 17. **Voting booths and guard rails.**—There shall be in each polling place during each election a sufficient number of voting booths, not less than one for every seventy-five registered electors in the district. Each such booth shall be at least three feet square, shall have four sides enclosed, each at least six feet high, and the one in front shall open and shut as a door swinging outward, and shall extend within two feet of the floor. Each such booth shall contain a shelf which shall be at least one foot wide, extending across one side of the booth at a convenient height for writing, and shall be furnished with such supplies and conveniences including pencils having black lead only, as will enable the electors to conveniently prepare their ballots for voting. Each booth shall be kept clearly lighted while the polls are open by artificial lights if necessary. A guard rail shall be placed at each polling place at least six feet from the ballot boxes and the booths, and no ballot box or booth shall be placed within six feet of such rail. Each guard rail shall be provided with a place for entrance and exit. The arrangement of the polling place shall be such that the booths can only be reached by passing within the guard rail, and that the booths, ballot boxes, election officers and every part of the polling place except the inside of the booths, shall be in plain view of the election officers and the persons just outside the guard rail. Such booths shall be so arranged that there shall be no access to intending voters or to the booths through any door, window, or opening, except by the door in front of said booth.

§ 18. **Payment of election expenses.**—The expense of providing polling places, voting booths, supplies therefor, guard rails and other furniture of the polling place, and distance markers, and the compensation of the election officers in each election district, shall be a charge upon the town or city in which such election district is situated, except that such expenses incurred for the purpose of conducting a village election, not held

at the same time as a general election, shall be a charge upon the village. The expense of printing and delivering the official ballots, sample ballots and cards of instruction, poll books, tally sheets, return sheets for inspectors and ballot clerks, and distance markers to be used at a town meeting, city or village elections not held at the same time as a general election, and of printing the lists of nominations therefor, shall be a charge upon the town, city or village in which the election is held. The expense of printing and delivering the official ballots, sample ballots and cards of instructions, poll books, tally sheets, return sheets for inspectors and ballot clerks, and distance markers, to be used in any county at any other election, if no town meeting, city or village election be held at the same time therewith, and of printing the lists of nominations therefor, shall be a charge upon such county. The expense of printing and delivering the official ballots, sample ballots and cards of instruction, poll-books, tally sheets, return sheets for inspectors and ballot clerks, and distance markers, to be used in any county at any such other election, and of printing the lists of nominations therefor, if the town meeting, city or village election be held in such county at the same time therewith, shall be apportioned by the county clerk between such town, city or village and such county, in the proportion of the number of candidates for town, city or village officers on such ballots, respectively, to the whole number of candidates thereon, and the amount of such expense so apportioned to each such municipality shall be a charge thereon. All expenses lawfully incurred by the board of police commissioners of the city of New York, and by the board of elections of the city of Brooklyn, shall be a charge on such respective cities, and after being audited by the proper officer, shall be paid by the comptroller of said respective cities upon the certificate of such boards, respectively. The county clerk of each county, not salaried, shall be paid by such county a reasonable compensation for his services in carrying out the provisions of this chapter, to be fixed by the board of supervisors of the county, or the board acting as such board of supervisors. The town clerk of each town shall be paid by such town a reasonable compensation for his services in carrying out the provisions of this chapter, to be fixed by the other members of the town board of the town. Ballot clerks, and persons acting as such, shall receive the same compensation for their attendance at an election, as inspectors of election for the election, and be paid in

like manner. An inspector of election lawfully required to file papers in the county clerk's office, shall, unless he resides in the city or town in which such office is situated, be entitled to receive as compensation therefor five dollars, and also four cents a mile for every mile actually and necessarily traveled between his residence and such county clerk's office in going to and returning from such office. In cities of the first class, the persons appointed and serving as inspectors of election shall receive five dollars for the hours fixed by law for each day of registration, and of revision of registration for a special election, and five dollars for the hours fixed by law for the election, and five dollars for the canvass and return of the votes. The poll clerks in such cities shall each receive the same compensation as inspectors for the election and for the canvass of the votes, and the ballot clerks shall receive five dollars each. Such officers shall be paid by the comptroller of their respective cities upon the certificate of the board appointing them.

§ 19. Delivery of election laws to clerks, boards and election officers. — The secretary of state shall cause to be prepared a compilation of all the laws relating to elections in cities, towns, and villages in force on the fifteenth day of May, in the year eighteen hundred and ninety-six, together with subsequent amendments thereto, with annotations and explanatory notes and blank forms, properly indexed, and shall procure the same to be printed wherever he deems it desirable for the best interests of the state, and shall, at least sixty days before each general election held after this chapter takes effect, transmit to the county clerk of each county, except New York and Kings, and to the board of police commissioners of the city of New York, and the board of elections of the city of Brooklyn, a sufficient number of copies thereof, to furnish one such copy to the county clerk and members of such boards, and one to each town, village and city clerk, and to each election officer in such county and said cities. The county clerk of each county, except New York and Kings, and the board of police commissioners of the city of New York and the board of elections of the city of Brooklyn, shall forthwith transmit one of each such copies to each such officer in such county or city. Each copy so received by each such officer shall belong to the office of the person receiving it. Every incumbent of the office shall preserve such copy during his term of office, and upon the expiration of his term, deliver it to his successor.

ARTICLE II.

Registration of Electors.

Section 30. Meetings for registration.

31. Adding and erasing names on register.
32. Forms for registration.
33. Method of registration.
34. General provisions.
35. Certification and custody of register.
36. Delivery of blank books for registration, certificates and instructions.

Section 30. Meetings for registration.— Before every general election, the board of inspectors for each election district in every city, and in villages having five thousand inhabitants or more, shall hold four meetings for the registration of the electors thereof, at the place designated therefor, on the fourth Friday, fourth Saturday and the third Friday and third Saturday before such election, to be known respectively as the first, second, third and fourth meetings for registration. Each meeting, if in cities of the first class, shall begin at seven o'clock, if elsewhere, at eight o'clock in the forenoon, and continue, if in cities of the first class, until ten o'clock, if elsewhere, until nine o'clock in the evening. In all election districts other than in cities or villages having five thousand inhabitants or more, the board of inspectors of election for each such election district shall hold two meetings for the registration of electors thereof, at the places designated therefor, before each general election, viz., on the fourth and third Saturday before the election, to be known respectively as the first and second meetings for registration, which meetings shall begin at nine o'clock in the forenoon and continue until nine o'clock in the evening. The board of inspectors of election shall also, if ordered so to do by the supreme court, or a justice thereof, or a county judge, as provided in section thirty-one of the election law, meet on the second Saturday before each general election for the purpose of correcting the registers by adding to or striking off the name of any person as directed by such order. It shall be the duty of each inspector of election to make a note on the registers opposite the name of each person so enrolled, or so stricken off, of the date of such order, and the court, justice or judge issuing the same. If any special election shall be ordered in any city or village, the inspectors of election of the various election districts in which

such special election is to be held, shall meet in their respective districts at the place designated therefor, on the second Saturday preceding such special election, from eight o'clock in the forenoon to ten o'clock in the evening for the purpose of revising and correcting the register of electors as hereinafter provided. No inspector shall on any day for registration be absent during the hours fixed for enrolling the names of electors.

Unless a registry law takes away or unreasonably restricts the right of suffrage, it is constitutional. *People v. Wilson*, 3 Hun, 437. But see 62 N. Y. 186. That the right of suffrage may be lost, not by any act of the elector, but by the acts and omissions of the officers appointed to prepare the registry, does not affect the question. *Id.*

Duly qualified voters who have applied to the board of inspectors in an election district in the city of New York, and are waiting at the hour of nine o'clock in the evening, are entitled to be registered, notwithstanding the hour is meanwhile passed. *People ex rel. Cass v. Hosmer*, 2 How. (N. S.) 472.

§ 31. **Adding and erasing names on register.**—If the board of inspectors at any meeting for the registration of electors shall have neglected or refused to place upon the register of electors the name of any person who is entitled to have his name placed thereon, application may be made to the supreme court, or any justice thereof in the judicial district in which such election district is located, or of a county adjoining such judicial district, or to a county judge of the county in which such election district is located, on a day at least two days prior to the second Saturday before any election, for an order to place such name upon the register of electors; and such court, justice or judge may, upon sufficient evidence, and upon such notice of not less than twenty-four hours to the board of inspectors, and such other persons interested of such application as the court, justice or judge may require, order such inspectors to convene as a board of registration on the second Saturday before such election, and to add the name of such person to such register of electors, and such register shall be corrected accordingly; but no court, justice or judge shall order the name of any person to be added to the register of electors unless it shall have been omitted therefrom through the fault, error or negligence of the election officers. In case the name of any person who will not be qualified to vote in such election district, at the election for which such registration is made, shall appear upon such register, application may be made in like manner by any elector of the town or city in which such election district is located to any court, justice or

judge hereinbefore designated, for an order striking such name from the register, and such court, justice or judge may, upon sufficient evidence, and upon such notice of not less than twenty-four hours to the person interested of such application as the court, justice or judge may require, served either personally or by depositing the same in the post-office addressed to said person by his name, and at the address which appears in the register certified by the inspectors of election, proceed to convene the board of inspectors as provided herein for adding a name, and may order such board to strike such name from such register of electors, and such register shall be corrected accordingly.

The inspectors have no right to reject the vote of an elector, on the ground that he is a deserter from the military service, except on production of a record of his conviction by a court-martial. *Goetcheus v. Matthewson*, 61 N. Y. 420.

One who has been convicted of a felony, whilst a minor, and has served out his term of imprisonment before attaining his majority is disqualified from voting. *Hamilton v. People*, 57 Barb. 625.

The provision of the State Constitution, declaring that every male citizen shall, in the cases therein mentioned, be entitled to vote, has the effect to exclude from the exercise of such right all persons not embraced within it. *People v. Barber*, 48 Hun, 198. A female, not being a person embraced within the provision, is "a person not duly qualified under the laws of this state," within the meaning of the statute describing and punishing the offense of illegal voting. *Id.*

As to what constitutes such a residence on board of a lighter, moored alongside a pier, as renders the party a qualified voter, see *Ex parte Collins*, 64 How. 63.

A party, applying for registration, should produce his naturalization papers, if he has them in his possession. *People ex rel. Noel v. Smith*, 10 Misc. Rep. 100. If they can not be found, secondary evidence of their contents must be received. *Id.*

It is not essential to the validity of a register of electors, under the registry act, that the board of registry use, in preparing the preliminary register, the poll-list of the next preceding general election. *People ex rel. Frost v. Wilson*, 63 N. Y., 186. The inspectors of election, acting as such board, are simply required to enter in the register the names of all persons appearing on that list whom they determine to be still residents in the district. *Id.* In discharging this duty, they are authorized to take and use such poll-list. *Id.* But this is not compulsory, and their omission to do so is not a violation of the law. *Id.* The provisions as to the formal organization of the board of registry, and as to the certification of the registers, are directory merely, not jurisdictional. *Id.* The omission of the inspectors to observe them does not so invalidate their proceedings as to render all votes cast in the district illegal and void. *Id.*

If an applicant to be registered makes the proper statement, and the oath or affirmation, his name must be added to the list of voters, and inspectors have no discretion or right to refuse to add it. *Matter of Sherwood v. State Board, etc.*, 129 N. Y., 860. The law makes it their duty so to do. Yet, if a person who has been refused should apply to the court for a mandamus against the inspectors and it should there appear that he had no right to be registered, and was not in fact a

qualified voter, the court would not compel the inspectors to register him, and thus place him in a position where he might cast an illegal vote. *Id.*

Where a person, applying for registration, claims to be a citizen by virtue of the naturalization of his parent, secondary evidence thereof may be given, if, by reason of the loss of the certificate of naturalization, the primary evidence cannot be adduced. *People v. McNally*, 59 How., 500; 9 Abb. N. C., 468. The elector is competent to supply the loss of the certificate by his own oath. *Id.*

Where a person has been naturalized by a court of competent jurisdiction, his right to citizenship can not be questioned by the election officers. *People v. Walsh*, 9 Abb. N. C., 465.

The power of a county judge, or justice of the Supreme Court, under this section, to correct alleged errors in the matter of registration, is limited to cases where the board of inspectors refuses to strike from the list the name of a person not qualified to vote, or neglects or refuses to place thereon the name of a person entitled to register, but does not authorize such officer to strike from the list, on a summary application, the names of persons who have complied with all the statutory requirements to entitle them to registration. *Matter of Ward*, 48 State Rep'r, 613.

If the inspectors register persons who refuse to take the oath required by law, or refuse to present themselves in person on the days required for personal registration, or who fail to comply with other steps which the law requires and which the inspectors as ministerial officers plainly see have not been taken; or, if they refuse to register persons complying with the laws, or in any way undertake to exercise a judicial power which is not conferred upon inspectors of election; the privilege conferred upon judicial officers to correct these errors by a special proceeding of a summary character may be wisely exercised. *Id.*

The inspectors of election have no judicial power to determine contested questions of fact as to residence or any other matter which involves judicial discretion. *Id.*; *People, ex rel. Stapleton, v. Bell*, 119 N. Y. 175; 23 State Rep'r, 960.

A judicial officer, who has power to revise a ministerial action of the board of inspectors, does not by this statute gain a power to do a thing which the board of inspectors may not do. *Matter of Ward*, ante. His power is statutory and is limited to the correction of an error which would not have taken place but for the invalid action of the board of inspectors. *Id.* The statute does not seek to give other power, but expressly provides that the power of the judicial officer may be exercised only if the board refuses to strike from the list the name of the person not so qualified to vote, or neglects or refuses to place upon the list the name of a person entitled to register. *Id.* A judge may not, by such a statutory power, strike a name from the list which the inspectors of election could not strike from the registry. *Id.*

Students at a college or seminary, who have left and abandoned their former residences, and who have no other residence for the time than the college or seminary town, were held, in this case, not to be precluded by sec. 3, art. 3 of the State Constitution, from registering and voting in such town.

The board of registration acts only ministerially in receiving and registering the name of the voter and must, therefore, register all who conform in their application for registration to the formal requirements of the law. *Matter of Hamilton*, 80 Hun. 511; *People ex rel. Stapleton v. Bell*, 119 N. Y. 175. It must refuse registration to any who may fail in such confirmation. *Id.* It is only when the board fails in the discharge of such ministerial duty that the judge, under the provisions of the act, can compel by order the performance of such ministerial duty. *Id.* No power is conferred upon the judge under this section, upon a summary application, to determine, upon the facts and law, the right of a citizen to register and vote without regard to the question of conformance on his part, or on the part of the board of registration, with the formal requirement of the statute regulating the registration of voters. *Id.*

Under § 37 of the Election Law, as amended by chap. 275 of 1894, a judge at chambers has the right to strike from a registry list the name of a person, who is not qualified as a voter in the election district, or who cannot become so qualified before the election. *Matter of Goodman*, 146 N. Y. 284. But such provision does not, it seems, apply to a case of doubt, where there is a dispute about the facts, or there is ground for differing inferences, but only where the facts show affirmatively that he is not, and cannot become, qualified. *Id.*

An order to show cause why the name of a person should not be stricken from the registry list need not be served upon any one except such person, though the order provides for service upon others. *Matter of Griffiths* (County Court, 1896), 16 Misc. 128.

§ 32. **Forms for registration.**—Subdivision 1. The board of inspectors of each election district in the state shall, at their meetings for registration for the general election in each year, make a quadruplicate register—one copy by each inspector—of the names and residences of those persons, and none other, who are or will be qualified to vote in such district at such election, which register, when finally completed, shall be the register of electors of the district for such election. Such register shall also be used at all other elections held in such district during the year succeeding the election for which it is made, except for town meetings and village elections for which no registration is required. In cities of the first class, the register shall be arranged in fifteen columns. In the first column of such register there shall be entered at the time of the completion of the registration on the last day for registration, a number opposite the name of each person so enrolled, beginning with “1” and continuing in numerical order. On each day of registration there shall be entered in the second column thereof the surnames of such persons in the alphabetical order of the first letter thereof, and in the third column the Christian names of such persons respectively. In the fourth column shall be entered the residence number or other designation, and in the fifth column the name of the street or avenue of such residence or a brief description of the locality thereof. In the sixth column shall be entered the number of the floor or room occupied by the elector at the residence given by him, in the seventh column shall be entered his age, in the eighth, ninth and tenth columns his length of residence in the state, county and election district, respectively; in the eleventh column shall be entered the fact, if he be a native citizen. In the twelfth column the fact, if he be a naturalized citizen; in the thirteenth column shall be entered the date of the registration of the elector. The fourteenth column shall be reserved for entering the consecutive number on the stub of the official ballot voted by the elector on election day. In the fifteenth column shall be entered, opposite the name of each elector, under the heading “remarks,” the facts regarding challenges, oaths and other facts affecting such elector required to be recorded.

Subdivision 2. In all election districts other than in cities of the first class, the register shall be arranged in eight columns. In the first column of such register there shall be entered at the time of the completion of the registration on the last day thereof, a number opposite the name of each person so enrolled, commencing with "1" and continuing in numerical order. On each day of registration there shall be entered in the second column thereof the surnames of such persons in the alphabetical order of the first letter thereof, and in the third column the Christian names of such persons respectively. In the fourth column shall be entered the residence number or other designation, and in the fifth column the name of the street or avenue of such residence, and a brief description of the locality thereof. In the sixth column shall be entered the date on which the elector was registered. The seventh column shall be reserved for entering the consecutive number on the stub of the official ballot voted by the elector on election day. In the eighth column shall be entered opposite the name of each elector, under the heading "remarks," the facts regarding challenges, oaths and other facts affecting such elector required to be recorded.

Subdivision 3. In cities of the first class, the board of inspectors of each election district shall, immediately after the close of each day of registration, make and complete one list of all persons enrolled in their respective districts, in the numerical order of the street numbers thereof which list shall be signed and certified by the board of inspectors. Such list shall be delivered by the chairman of the board of inspectors to the police captain of the precinct in which the election district is located, or an officer thereof, who shall forthwith deliver the same, if in the city of New York, to the supervisor of the City Record, if in the city of Brooklyn, to the board of elections, and if in the city of Buffalo, to the city clerk. In the city of New York such list, compiled by assembly districts, shall be published in the City Record within three calendar days after the last day of registration and before the election. In the city of Brooklyn the board of elections, and in the city of Buffalo the city clerk shall, as soon as possible after the delivery of such list, and before the day of election, print and distribute, in pamphlet form, for each ward, not less than fifty times as many copies of said list as there are election districts in such ward, so that each ward pamphlet shall contain the lists of the several election districts in such ward. Such lists shall be made in the following form, to wit:

Residence number,
or other designation.

GRAND STREET.

Name of voter.

14.

Smith, John M.

15.

Jones, Charles M.

§ 33. **Method of registration.**—Subdivision 1. In cities and in villages having five thousand inhabitants or more, the names of such persons only as personally appear before the inspectors, and who are or who will be at the election for which the registration is made, qualified electors, shall be enrolled upon the register at a meeting for registration for a general election, except that whenever any election district in a village having five thousand inhabitants or more shall embrace within its boundaries, territory without the limits of such village, the inspectors shall, at their first meeting for registration for a general election, place upon such register the names of all persons appearing on the register of the last preceding general election, who resided without the limits of such village, but within the election district, who voted at such last preceding general election, except the names of such electors who are proven to the satisfaction of such inspectors to have ceased to be electors since such general election, or have moved within the limits of such village. They shall also place upon such register, at their first and subsequent meetings, the names of all other persons known or proven to their satisfaction, who are or will be entitled to vote at the election, who reside within such election district, but without the limits of such city or village.

Subdivision 2. In cities of the first class the board of inspectors shall issue to every person enrolled upon the register, a certificate in which shall be written the name and address given by such person, and the date of such entry upon the register. Such certificate shall be retained by the person to whom it is issued as evidence of the fact that such name and address were entered upon the register.

Subdivision 3. At the first meeting for registration in all election districts where only two meetings for the enrollment of electors are held for any general election, as provided in section thirty of the election law, the inspectors shall at such first meeting, place upon the register the names of all persons who voted at the last preceding general election, as shown by the register or poll book of such election, except the names of such electors as are proven to the satisfaction of such inspectors

to have ceased to be electors in such district since such general election, and also at said first meeting and at the second meeting, they shall place on the register the names of all persons known or proven to the satisfaction of the inspectors who are, or will be, entitled to vote at the election for which such registration is made.

Subdivision 4. At the meeting of the board of inspectors in a city or village having five thousand inhabitants or more, for revising and correcting the register for any election other than a general election, the inspectors shall retain upon the register of their respective districts, the names of all persons qualified to vote at such election in such district, which appear upon the register of electors for the last preceding general election in such election district, except the names of such electors as are proven to the satisfaction of the inspectors to have ceased to be electors of such district since their names were placed upon such register, and shall, at such meeting, add only to such register the names of the persons qualified as electors, who shall personally appear before the board. If, however, such elector resides within such election district, but without the limits of such village, his name shall be placed upon such register, if it is shown to the satisfaction of such board that he is entitled to vote therein. In cities of the first class any elector who was enrolled upon the register in an election district of such city at the last preceding general election, and who since that time shall have removed into another election district in the same city, and who is otherwise qualified to vote at such special election, shall, upon demand, receive from the board of inspectors of the district in which his name was enrolled for such last preceding general election, a certificate duly signed by the said board of the fact that his name was upon such register, and has been erased therefrom because of such removal, and his name shall thereupon be erased from such register. Upon presentation of such certificate by the elector to the board of inspectors of the election district in which he resides, his name shall be placed upon the register for such district. The inspectors must note upon the register opposite the name of such elector, the fact of such certificate of removal, specifying the election district from which he has removed. They shall carefully attach such certificate to the register. No elector shall cause his name to be placed upon the register of an election district for any

election other than a general election, while his name shall appear upon the register of another district to be used at such election. Any person who shall violate this provision is guilty of a felony; and upon conviction shall be punished by imprisonment in a state prison for not less than two or more than five years. In all election districts other than in cities or in villages of five thousand inhabitants or more, the board of inspectors in preparing for an election other than a general election shall add to the register for the last preceding general election, the names of such electors as they know are or are satisfied by proof will be, on the day of such election, entitled to vote thereat, and shall strike therefrom the names of all persons whom they know or are satisfied by proof have ceased to be qualified electors of such election district. No registration of electors shall be required for town or village elections.

§ 34. **General provisions.**—Subdivision 1.—**Qualification of elector.** — A person is a qualified elector in any election district for the purpose of having his name placed on the register if he is or will be, on the day of the election, qualified to vote at the election for which such registration is made. A qualified elector is a male citizen who is or will be on the day of election twenty-one years of age, who has been an inhabitant of the state for one year next preceding the election, and for the last four months a resident of the county, and for the last thirty days a resident of the election district in which he may offer his vote. If a naturalized citizen, he must, in addition to the foregoing provisions, have been naturalized at least ninety days prior to the day of election.

Subdivision 2. For the purpose of registering and voting no person shall be deemed to have gained or lost a residence, by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum, or institution wholly or partly supported at public expense, or by charity; nor while confined in any public prison. Any person claiming to belong to any class of persons mentioned and referred to in this subdivision shall file with the board of inspectors at the time of registration a written statement showing where he is actually domiciled, his business or occupation, his business address, and to

which class he claims to belong. Such statement shall be attached to the register, and be open for public inspection, and the fact thereof shall be noted in the register opposite the name of the person so enrolled.

A person who, residing in one election district of a city, removes to, takes and occupies a room in a seminary of learning in another district, as a student and not permanently as a residence, neither loses his residence nor gains a new residence in the seminary district by the removal, and is lawfully entitled to vote in the former, not the latter, district. *Matter of Goodman*, 146 N. Y. 284. A voter may change his legal residence into a new district in spite of the fact that he becomes a student in an institution of learning therein. *Id.* But his occupation of rooms in the institution is presumably only for the prescribed period of study. *Id.* Such occupation is, therefore, no evidence of a change of residence. *Id.* The facts to establish the change must be wholly independent of his presence in the new district as a student, and should be, it seems, clear and convincing to overcome the natural presumption. *Id.* A verified statement of the voter of a mental intention to change his residence, unless fortified by consistent acts, is not, it seems, sufficient to rebut such presumption. *Id.*

An inmate of an institution supported wholly or partly by charity, who had gained a legal vote and residence in the district prior to the taking effect of the Constitution of 1894, is not deprived of the right to vote by the provisions of section 3, article 2 of said Constitution. *Matter of Griffiths* (County Court, 1896), 16 Misc. 128.

Under the provisions of section 3, article 2 of the State Constitution, to entitle a student, whose local residence has been previously in another district, to vote in the election district in which the seminary he attends is situated, it is essential that the intent to change his legal residence be manifested by acts which are independent of his presence as a student in the new locality. *Matter of Garvey*, 147 N. Y. 117; *rev'g* 84 Hun, 611. The rule requiring proof of change of local residence by acts independent of the presence of the student in the seminary, was held, in the case last cited, to be controlling in the determination of the right to registration, in the election district in which the seminary is situated, of certain students of the general Theological Seminary of the Episcopal Church in New York city, living in one of the seminary buildings. *Id.*

The Home for Aged Men, in the town of Colonie, county of Albany, is an institution started wholly or partly by charity, within the meaning of section 3, article 2 of the Constitution, as amended in 1895. *Matter of Batterman* (Sup. Ct., Chambers, 1895), 14 Misc. 213. Such amendment is not retroactive and does not deprive an inmate of such institution, who gained a residence and voted in the district prior to January 1, 1895, of his right to vote therein. *Id.*

Subdivision 3. Illiterate and disabled electors.—If, at any meeting for the registration of electors, any person entitled to be registered and of whom personal registration is required, shall declare to the board of inspectors at the time he applies for registration, that he is unable to write by reason of illiteracy, or that he will be unable to prepare his ballot without assistance by reason of blindness, or of such degree of blindness as will prevent him, with the aid of glasses, from seeing the names printed upon the official ballot, loss of both hands, or such total inability of both hands that he cannot use either hand for ordinary purposes, or that he will be unable to enter the voting booth without assistance by reason of disease or crippled condition, the nature of which he must specify, it shall be the duty of the said board of inspectors to administer an oath to such person in the following language, namely: "You do solemnly swear (or affirm) that you will be unable to prepare your ballot without assistance, because," and after the word "because," continuing with a statement of the specific disease or crippled condition assigned by the person as the cause of his alleged disability, and the said inspectors and each of them shall make a note upon the register of each instance in which such oath is administered, and of the cause or reason so assigned.

Subdivision 4. If any elector after being enrolled, shall change his place of residence within the same election district, he may appear before the board of inspectors of such district on any day of registration, or on the day of election, and state under oath that he has so changed his residence, and the board of inspectors shall thereupon make the proper correction upon the register of such district.

Subdivision 5. No part of a day fixed for the registration of electors shall be deemed a holiday so as to effect any meeting or proceeding of the board of inspectors for registration.

Subdivision 6. Challenges to applicants for registration.—Any person who applies personally to any board of inspectors for registration for any election may be challenged by any qualified elector present. If such applicant be so challenged, or if any member of the board of inspectors shall have reason to suspect that such applicant is not entitled to have his name enrolled on such register, the chairman of the board shall administer to such applicant the preliminary oath which is required by law to be administered to a challenged person offering to vote at a general election, and may thereupon examine him as to his qual-

ifications as an elector, and may require him to state under oath his age, residence by street and number, if it have a street number, and, otherwise, to describe the locality thereof, and if he is not a householder, to state the name of the householder with whom he resides, and in like manner to describe the residence of such householder. If the applicant shall by his answers satisfy the inspectors of his right to be registered, they shall enroll his name; if not, they shall tender to him the general oath prescribed by law in the case of an elector attempting to vote under challenge. If such applicant shall make such oath, his name shall be placed upon the register. If he shall refuse to make such oath, his name shall not be placed upon the register.

Subdivision 7. Record of challenges.— If, at a meeting of the board of inspectors for registration, any elector shall, upon oath, declare that he has reason to believe that any person on the register of electors will not be qualified to vote at the election for which the registration is made, the board of inspectors shall place the words “to be challenged” opposite the name of such person, and when such person shall offer his vote at such election, the general oath as to qualification shall be administered to him, and if he shall refuse to take such oath he shall not be permitted to vote.

Subdivision 8. Production of naturalization papers.— It shall be the duty of every naturalized citizen before being registered to produce to the inspectors, if any inspector shall require, his naturalization papers or a certified copy thereof for their inspection, and to make oath before them that he is the person purporting to have been naturalized by the papers so produced, unless such citizen was naturalized previous to the year eighteen hundred and sixty-seven. If however such naturalized citizen can not for any reason produce his naturalization papers, or a certified copy thereof, the board of inspectors, or a majority of such board may place the name of such naturalized citizen upon the register of electors upon his furnishing to such board evidence which shall satisfy such board of his right to be registered.

Subdivision 9. Any person knowingly taking a false oath before the board of inspectors, shall upon conviction thereof be punished as for willful and corrupt perjury.

§ 35. Subdivision 1. Certification and custody of register.— At the close of each meeting for the registration of electors, for a general or other election in a city, or in an election district

wholly within a village having five thousand inhabitants or more, the inspectors shall append to each book of registration their certificate, to the effect that such register as it now is comprising (here insert the number) names, is a true and correct register of the names and residences of all the electors qualified to vote at such election in such district, who have personally appeared before the board of registration, and such registers so certified shall be presumptive evidence that the names and places of residence contained therein are the names and places of residence given by the persons registered respectively. At the close of each meeting for the registration of electors for a general or other election elsewhere than in a city, or in a district wholly within a village having five thousand inhabitants or more, the inspectors shall append to each book of registration a certificate to the effect that such register as it now is, comprising (here insert the number) names, is a true and correct register of all electors qualified to vote at such election in such district, who have personally applied for registration, or whose names the board was required by law to place thereon. Each such certification shall be signed by all the inspectors, but in case one inspector required to sign such certificate shall fail for any reason so to do, he may be required by the officer with whom such register is filed to sign such register at a subsequent date. In all cases a majority of the inspectors must sign such certificate at the close of each day of registration.

Subdivision 2. The register of electors made by the chairman of the board of inspectors shall be, and shall be known, as the public copy of registration. Such public copy shall be left in a prominent position in the place of registration from the first day of registration until election day, and shall at all reasonable times be open to public inspection and for making copies thereof. Each other inspector shall carefully preserve his register of electors and shall be responsible therefor, until the close of the canvass of the votes on election day, except as hereinafter provided for in cities of the first class. At the close of each day of registration, the inspectors shall draw a line in ink immediately below the name of the elector last entered upon each page of each such register. Upon the succeeding day of registration, they shall enter the names of electors in the alphabetical order of the first letter of the surname below the line so drawn upon the proper page after the close of the previous day of registration. Upon the close of the last day of registra-

tion, the inspectors shall again carefully compare all the books of registration, to see that they are identical as to their contents, and (after making and completing the separate list of the electors in cities of the first class, as provided in subdivision three of section thirty-two of the election law), shall certify as a board in the proper place provided therefor upon each such register that such register is a true and correct register of the persons enrolled by them in such district for the next ensuing election, and shall state the whole number of such persons so enrolled. In cities of the first class, at the close of the last day of registration, the chairman of the board of inspectors shall take from an inspector of opposite political faith from himself, the register of electors made by such inspector and shall file the same on the Monday after the last day of registration, if in the city of New York with the chief of the bureau of elections, if in the city of Brooklyn with the board of elections, and if in the city of Buffalo with the city clerk. Such register so filed, shall be a part of the record of the offices in which it is filed. The two other inspectors of opposite political faith from each other shall each retain their respective registers of electors for use on election day. All registers of electors shall at all reasonable hours be accessible for public examination and making copies thereof, and no charge of any kind shall be made for such examination or for any elector making a copy thereof. In cities of the first class the public copy of registration shall be used, if necessary, on election day by the inspector whose register was filed as herein provided by said chairman. Any person who shall alter, mutilate, destroy or remove from the place of registration the public copy of such registration, shall be guilty of a felony, and shall be punished upon conviction thereof by imprisonment in a state prison for not less than two nor more than five years, unless otherwise provided by law. If, in cities of the first class, the board of inspectors shall meet on the second Saturday before the election for the purpose of revising and correcting the register of electors in pursuance of an order of the supreme court, a justice thereof or a county judge, as provided in section thirty-one of the election law, the inspectors shall certify forthwith to the officer or board with whom the copy of the register is filed, the change or changes made upon such register in pursuance of such order. At any revision of registration for an election other than a general election, the quadruplicate register of electors for the last preceding general election shall be furnished to the

inspectors of election by the officer or board having the custody thereof, and the inspectors shall certify to the officer or board in cities of the first class with whom the registers are filed, the changes, additions or alterations made in such registers for such election. In the cities of the first class at the close of the canvass of the votes of any election, or within twenty-four hours thereafter the two copies of the register of electors used by the inspectors and the public copy thereof shall be filed respectively with the chief of the bureau of elections in the city of New York, and with the board of elections in the city of Brooklyn, and with the city clerk of Buffalo. In all election districts other than in cities of the first class, one copy of the register used on election day by the inspectors shall within twenty-four hours after the close of the election be filed in the office of the town or city clerk of the town or city in which such election district is, and the other copies with the county clerk. Such register of electors shall be carefully preserved for use at any election which may be ordered or held in either of such counties or cities, respectively, prior to the next ensuing general election, at which they may be required.

Subdivision 3. At the close of registration on the fourth day in the election districts in cities and villages of five thousand inhabitants or more, and at the close of registration on the second day in other districts, the board of inspectors shall forthwith certify to the officer or board charged with the duty of furnishing ballots to such district, the total number of electors enrolled in such district. In cities of the first class the inspectors of each district shall also furnish to the police at the close of each day of registration, the total number of electors enrolled on such day, in their respective districts.

§ 36. Subdivision 1. **Delivery of blank books for registration certificates and instructions.**—The secretary of state shall purchase wherever he deems it desirable for the best interests of the state a suitable number of blank books for register of electors, with blank certificates and brief instructions for registering the names of electors therein, in the forms respectively provided in subdivisions one and two of section thirty-two of the election law, at least four of such books for each board of inspectors in the state, and such number of extra copies thereof as in his judgment may be necessary for each county or city to replace lost or damaged registers before delivery to the inspect-

ors. Such register of electors shall have the leaves thereof indexed with the letters of the alphabet, beginning with the letter "A" for the first leaf, and so on. He shall transmit such registers, certificates and instructions to the county clerk of each county, except New York and Kings, and to the board of police commissioners of the city of New York, and to the board of elections of the city of Brooklyn, at least twenty days prior to the first day of registration for a general election in each year. The county clerk shall deliver such books to the town clerks of each town, and to the city clerk of each city in such county, by mail or otherwise, at least five days prior to the first day of registration, and such town clerks and city clerks, and the said boards in New York and Brooklyn, shall deliver such books to the inspectors before the hour set for registering the names of electors on the first day for registration. On the last day of registration, the board of police commissioners of the city of New York, the board of elections of the city of Brooklyn, and the city clerk of Buffalo shall furnish to each board of inspectors in their respective cities, blanks for the list of electors provided for in subdivision three of section thirty-two of the election law.

Subdivision 2. Delivery of previous registers and poll books to inspectors.— Each town clerk with whom the register of the last preceding general election in any election district, elsewhere than in a city or wholly within a village having five thousand inhabitants or more, shall have been filed, shall cause such register and one of the poll-books to be delivered to the board of inspectors of such district at the opening of its first meeting for the registration for any election. If a new election district shall have been formed in a town since such general election, the clerk of such town shall, before the first meeting for registration thereafter in such new election district, make a certified copy of each register for such general election of each election district out of which such new district shall have been formed, and shall cause such certified copy to be delivered to the board of inspectors of such new election district at the opening of such meeting for registration. Such board, at such meeting, shall place upon the register of electors all persons whose names are upon such copies who are qualified to vote in such election district at the election for which such meeting is held, except the names of persons who are required to personally appear for registration. If a new election district shall have been formed

in a city since such general election, the clerk or board with whom the register of electors for such last preceding general election shall have been filed shall, before the meeting of the inspectors of election of such new district for registration for any other election, make a certified copy of each register of electors for such last preceding general election of each election district out of which such new election district is formed, and the inspectors of such new election district shall, at such meeting for registration for such election, place upon the register of electors the names of all persons upon such copies who are qualified to vote in such election district at the election for which such meeting is held.

ARTICLE III.

Primaries, Conventions and Nominations.

Section 50. Definitions of primary and convention.

51. Notice of primary.
52. Organization and conduct of primaries.
53. Qualifications of voters at primaries.
54. Duties of chairman of primary.
55. Watchers and canvass of votes at primaries.
56. Party nominations.
57. Independent nominations.
58. Places of filing certificates of nominations.
59. Times of filing certificates of nominations.
60. Certification of nominations by secretary of state.
61. Publication of nominations.
62. Lists for town clerks and aldermen.
63. Posting town and village nominations.
64. Declination of nomination.
65. Objections to certificates of nominations.
66. Filling vacancies in nominations.

§ 50. **Definitions of primary and convention.**—As used in this article, a convention is an assemblage of delegates representing a political party or independent body, duly convened for the purpose of nominating candidates for office, electing delegates to conventions, electing officers for party organizations, or for the transaction of any other business relating to the affairs or conduct of the party or independent body; and a primary is any other assemblage of voters of a political party or independent body duly convened for any such purpose.

A convention or primary meeting, within the meaning of this statute, is an organized assemblage of voters or delegates, representing a political party, which, at the last election before the call of such convention, polled at least one per centum of the entire vote cast in the district for which the nomination was made. *Matter of Cowie*, 33 N. Y. St. Rep., 710. It is the convention that the act recognizes, and to give to a county convention, or a state or county committee, power to say which of two bodies claiming to be the regular party convention, and which has each made a nomination, is the regular party convention, is giving the county convention or the state committee the power to make the nomination in the district, and not the convention elected as prescribed by the party and in accordance with its usages. *Id.* No supervisory power over the action of the local convention is given by the statute to either the county or state committee, or to a county convention called for the nomination of candidates for a county or city office. Neither the clerk or the court has power to decide between the claims of rival factions of a political party. *Id.* Where a certificate of nomination by a convention of a party is filed, and no objections are filed within the time specified in the statute, the clerk is bound to recognize the person named as the regular nominee of the party. *Id.* Certificates of nomination, which are in apparent conformity with the provisions of the act, shall be deemed valid unless objections thereto shall be made in writing within three days after the filing of the same. *Id.*

The definition of a convention or primary has been somewhat changed by section 50 of the present act, but not so as to affect the principle laid down in the above cited case.

The election law, in a variety of ways, recognizes that, under our system of government, the affairs of the state are conducted through the medium of the representatives of political parties, and that, of necessity, such parties must, to a certain extent, provide for their conduct certain rules and regulations which are not inaptly termed party machinery. *Matter of Redmond*, 5 Misc. 369.

In section 50 of this act, provision is made for the conduct of political parties by means of conventions and primaries, and by such rules and regulations as those bodies may adopt. *Id.* But, independent of said act, it is a fact so well known and of such long continued existence as to entitle it to judicial recognition, that political parties have their territorial divisions, and that, while each division is within certain limitations a law unto itself so far as the particular territory it assumes to represent is concerned, yet, by party usage, each of such divisions owes and yields allegiance to some higher power. *Id.*

Where a person allies himself with a political party he tacitly acknowledges allegiance to all the rules and regulations of that party, as enunciated or expressed by what party usage recognizes as the supreme or superior authority of the organization. *Id.* The recognition of this principle does not compel one to follow blindly the dictates of party or vote for incompetent or unfit candidates. *Id.* He still possesses the inalienable right of severing, either permanently or temporarily, his party relations. *Id.* Neither does it prevent any person, with a sufficient number of followers, who desires his election to any office, from being a candidate for that office in the manner provided by the statute. *Id.* But he cannot claim to be a nominee or representative of a political party unless he has been first regularly nominated by that party. *Id.* What constitutes such regularity depends upon the usages of party itself, and not upon any rules or regulations which may seem just and proper to courts and judges. *Id.*

An applicant who has received his nomination at the hands of a convention whose claims to regularity have been submitted to the supreme authority within the party and, by that body, been declared unfounded, cannot be regarded as a regular nominee of his party, and is, consequently, not entitled to have his name printed upon the official party ballot. *Id.*

Courts will interfere in contests between factions of a political party only in cases where there has been no adjudication of the question of regularity by some division of the party which is conceded to be superior in point of authority to the one in which the contention arose, provided, of course, that the question of good faith in the making of such adjudication is not involved. *Matter of Pollard*, 55 St. Rep. 155.

When the majority of those whose seats are uncontested, decide as to who of the contestants should be admitted to a convention or committee, party loyalty and obedience to party usage require the minority to acquiesce. *Matter of Broat*, 6 Misc. 445.

Party caucuses should be the fair, full and free expression of the party will, and such expression should not be thwarted by sharp practice or throttled by force or fraud. *Id.* And, while it is not to be expected that political caucuses will be conducted with the order and decorum of a church meeting or a Sunday-school, still fair play and good faith should prevail, and a substantial compliance with the party and state law be compelled. *Id.*

It is the duty of the chairman of a caucus to put motions, properly made, to a vote. *Id.* He has no right to declare a motion or resolution carried without a vote being taken, unless by unanimous acquiescence. *Id.* Where the chairman declares the persons, nominated as delegates and committeemen, elected without taking a vote, and refuses to take a vote thereon, or to recognize any other nomination, his act is a nullity. *Id.*

When the chairman refuses to perform the duties of a chairman, or arrogates to himself the power lodged in the meeting or caucus itself, the meeting or caucus has power or authority to elect another chairman in his place. *Id.*

A meeting called for one day, if, for any good and sufficient reason, it is unable to perform and complete the duties it was called for, may properly adjourn to another day. *Id.*

In the absence of any rules governing a town committee, it must be held to the same rules that, at common law, govern any board or body of officers. *Id.* The act of the majority is the act of the board or committee. *Id.* Such act must be done where all the committeemen are present or have had notice to be present. *Id.* They have no power to act except in session, that is, they cannot act separately without any meeting being held. *Id.*

§ 51. Notice of primary.—No primary shall be held in a city or village having a population of over five thousand, as shown by the last state or federal enumeration, unless at least two days' notice thereof shall be published in a daily newspaper in such city or village, of the same politics with the political party giving the notice at least twice; but if no such newspaper is published in the same city or village where such primary is to be held, such notice shall be published in a weekly newspaper, if any, in such city or village of the same politics of the political party giving the notice before such primary is held. But if no such daily or weekly newspaper be so published in such city or village, such notice shall be posted in at least six public places in such city or village at least two days prior to the holding of such primary. Such primary shall be opened at such hour between nine o'clock in the forenoon and nine o'clock in the afternoon, as may be prescribed by the political party or independent body holding the same. Elsewhere than in such a city or village, every primary shall be called and held pursuant to notice given according to the regulations and usages of the political party or independent body holding it.

§ 52. Organization and conduct of primaries.—Every primary held by any political party or independent body for the purpose of choosing candidates for office, or the election of delegates to conventions, or for the purpose of electing officers of any political party or independent body, shall be presided over and

conducted by officers to be selected in the manner prescribed by the rules or regulations of the political party or independent body holding such primary. If the rules and regulations of the political party or independent body calling it so require, or if it shall be, by a vote of the electors present, so resolved, or, if it be in a city or village having a population of over five thousand according to the last preceding federal or state enumeration, and five qualified electors of the district where it is held, belonging to the political party calling it, shall serve upon the secretary or chairman of the general committee of the party, or of its organization in such city or village, or upon the chairman of the district committee, a written demand, stating that they so require it, the following additional requirements, or such of them as may be specified in such demand, shall be complied with:

1. The chairman and other officers shall take the constitutional oath of office.

2. Candidates and delegates and officers of the organization or committee shall be chosen by ballot.

3. The meeting shall be held open not less than one hour for voting thereat.

4. The tellers shall keep a poll list of the name and residence of each person voting, and assist the secretary in the canvass of the votes.

5. An elector shall be appointed watcher for each candidate or set of candidates or delegates requesting the same.

6. The chairman shall publicly announce the number of votes cast for each candidate, and the result of the canvass at the completion thereof, and shall, if the primary be held in a city or village having a population of more than five thousand, as shown by the last preceding federal or state enumeration, file a statement of such results and the oath taken at such primary, and the poll list kept thereat in the office of the county clerk, if located in such city or village, and otherwise, in the office of the city or village clerk, and the papers so filed shall be public records and open to inspection and examination by any elector of the state.

Posting notice of a primary to be held by a faction of a party is sufficient, where the only daily newspaper published in the city, though of the same political party, is opposed to such faction. *Matter of Mitchell*, 81 Hun, 401.

§ 53. **Qualifications of voters at primaries.**—No person shall be entitled to vote at any primary unless he may be qualified to

vote for the officers to be nominated thereat on the day of election. They shall possess such other qualifications as shall be authorized by the regulations and usages of the political party or independent body holding the same.

A resident of West Point, who has no other qualification as a resident of the State except such as he gains from such residence there, is not a resident of the State and qualified to vote. *Matter of Town of Highlands*, 48 N. Y. State Rep. 795. The mere fact of being in the employment of the government does not destroy his right to vote. *Id.* But he must do so in the place of his original residence which existed when he went into such employment, or at his place of residence, if any, within the State since acquired. *Id.*

§ 54. **Duties of chairman of primary.**—The chairman may administer any oath required to be administered at any primary. He shall decide all questions that arise relating to the qualification of voters when the voter is challenged by an elector and shall reject such vote, unless the person offering the vote is willing to be, and shall be sworn, that he will truly answer all questions put to him touching his qualification as such voter, and shall state under oath that he is qualified to vote at such primary.

§ 55. **Watchers and canvass of votes at primaries.**—The ballot box used at any primary shall be examined by the secretary and by the tellers, if any, in the presence of the watchers, if any, before any ballots are received to see that there are no ballots therein. Such watchers are entitled to be present from the commencement of the primary to the close of the canvass, and the signing of the certificates thereof. At the close of the canvass of the ballots cast for each candidate, the secretary shall publicly announce the vote and the result of the canvass.

§ 56. **Party nominations; choice of emblems for ballot.**—Nominations made as provided by this section shall be known as party nominations, and the certificate by which such nominations are certified shall be known as a party certificate of nomination. Party nominations of candidates for public office can only be made by a convention, or by a duly authorized committee of such convention of a political party which at the last preceding general election before the holding of such convention at which a governor was elected, cast ten thousand votes in the state for such officers; provided, however, that party nominations of candidates for public office to be voted for only in a

town, or ward of a city, or a village or subdivision thereof, can only be made by a convention or primary or by a duly authorized committee of such convention or primary of a political party, which, at the last preceding general election before the holding of such convention or primary at which a governor was elected cast ten thousand votes in the state for such officer. The party certificate whereby such party nominations are certified shall contain the title of the office for which each person is nominated, the name and residence of each such person, and, if in a city, the street number of the residence of each such candidate and his place of business, if any. It shall also designate, in not more than five words, the name of the political party which the convention, primary or committee making such nomination represents. It shall be signed by the presiding officer and a secretary of such convention or primary, or, if made by a committee, by a majority of the members thereof, who shall add to their signatures their respective places of residence, and shall make oath before an officer qualified to take affidavits that the affiants were such officers of such convention or primary, or that they are members and constitute a majority of such committee, and that such certificates and the statements therein contained are true to the best of their information and belief. A certificate that such oath has been administered shall be made and signed by the officer before whom the same was taken, and attached to such certificate of nomination. When the nomination is made by a committee, the certificate of nomination shall also contain a copy of the resolution passed at the convention or primary which authorized such committee to make such nomination. A certificate of nomination filed pursuant to this section may upon its face appoint a committee of one or more persons for the purposes specified in section sixty-six of this act. When a party nomination is made by a state convention of a candidate or candidates to be voted for by the electors of the entire state, it shall be the duty of such convention to select some simple device or emblem to designate and distinguish the candidates of the political party making such nominations or nomination. Such device or emblem shall be shown by a representation thereof upon a certificate signed and duly executed by the presiding officer and a secretary of said convention, which certificate shall be filed with the secretary of state, and such device or emblem, when so filed, shall in no case be used by any other party or independent body. When any independent body

shall make a like nomination, as provided by the fifty-seventh section of this act, it shall be the duty of the persons who shall sign and execute the certificate of nomination of such candidate or candidates, to likewise select some simple device or emblem to designate and distinguish the candidate of such independent body making such nomination, and such device or emblem shall be shown by the representation thereof upon a certificate signed and duly executed by the proper parties authorized for that purpose. The device or emblem so chosen, when filed as aforesaid, shall be used to designate and distinguish all the candidates of the same political party or independent body nominated by such political party or independent body, or duly authorized committee, or primary thereof, in all districts of the state. The device or emblem chosen, as aforesaid, may be the representation of a star, an animal, an anchor or any other appropriate symbol, but neither the coat of arms nor seal of any state, nor of the United States, the national flag, nor any religious emblem or symbol, nor the portrait of any person, nor a representation of a coin or of the currency of the United States shall be chosen as such distinguishing device or emblem. If the certificate of nomination of two or more different political parties or independent bodies shall designate the same, or substantially the same, device or emblem or party name, the officer with whom the certificates of nominations are filed shall decide which of said political parties or independent bodies is entitled to the use of such device, or emblem, or party name, being governed as far as may be, in his decision by priority of designation in the case of the device or emblem, and of use in the case of the party name. If the other nominating body shall present no other device or party name after such decision, such officer shall himself select for such other nominating body another device or party name, so that no two different parties shall be designated by the same device or party name. If there be a division within a party, and two or more factions claim the same, or substantially the same device or name, the officer aforesaid shall decide between such conflicting claims, giving preference of device and name to the convention or primary, or committee thereof, recognized by the regularly constituted party authorities; and if the other faction or factions shall present no other device or party name, the said officer shall select a different device and party name for each such other faction, which shall be used upon the ballots to dis-

tinguish its ticket. If two or more conventions are called by different authorities, each claiming to represent the same party for that purpose, the said officer shall select a suitable device and party name to distinguish the candidates of one faction from those of the other, and the ballots shall be printed accordingly. Any questions arising with reference to any device, or to the political party or other name designated in any certificate of nomination filed pursuant to the provisions of this section, or of section fifty-seven of this article, or with reference to the construction, validity or legality of any such certificate, shall be determined in the first instance by the officer with whom such certificate of nomination is filed. Such decision shall be in writing, and a copy thereof shall be sent forthwith by mail by such officer to the committee, if any, named upon the face of such certificate, and also to each candidate nominated by any certificate of nomination affected by such decision. The supreme court, or any justice thereof, within the judicial district, or any county judge within his county, shall have summary jurisdiction upon complaint of any citizen, to review the determination and acts of such officer, and to make such order in the premises as justice may require, but such order must be made on or before the last day fixed for filing certificates of nominations to fill vacancies with such officer as provided in subdivision one of section sixty-six of this article. Such a complaint shall be heard upon such notice to such officer as the said court or justice or judge thereof shall direct. If any certificate of nomination of candidates to be voted for by the electors of the entire state, filed with the secretary of state, pursuant to the provisions of this act, shall omit to designate a device or emblem to distinguish the candidates of the political party or independent body making such nomination, it shall be the duty of the secretary of state to select a device or emblem for that purpose, and such device or emblem so chosen shall be used to distinguish all candidates of that party or independent body throughout the state, whether such candidates are nominated for state, or for local offices; and if any certificate of nomination of candidates to be filled by the electors of a district less than the entire state shall be filed with the secretary of state, or with any other public officer pursuant to this article, by a political party or independent body which has made no nomination of candidates for offices to be filled by the electors of the entire state, and such certificate of nomination shall omit to designate a device or emblem to distinguish the

candidates nominated in such certificate, it shall be the duty of the secretary of state or other public officer with whom such certificate of nomination is filed, to select a device or emblem to represent the candidates named in such certificate of nomination.

This section applies to all organized parties and puts a mere local and isolated party on the same footing as a State party and its local branches, sections or connections. *Matter of Wheeler*, 10 Misc. 55.

Where, at an adjourned meeting of the Republican convention, the relator was nominated as candidate for member of congress, and thereafter the former secretary of the convention, who had been deposed, acting without authority from the chairman, summoned the delegates to reassemble, and those who attended nominated another person for that office, it was held that, upon nominating the relator, the power of the convention to nominate was exhausted; that the subsequent meeting was unauthorized, and that relator was the candidate of the party and entitled to have his name placed upon the official ballot. *People ex rel. Simpson v. Police Commissioners*, 10 Misc. 98.

A party, which did not poll at the last preceding general election the requisite number of votes in the State to entitle it, under this section of the Election Law, as amended in 1895, to make a party nomination, can not nominate State officers. *Matter of Madden*, 148 N. Y. 136. The legislature provided a method by which party nominations could be made known to the voters and to the public officials intrusted with the duty of preparing the official ballot. *Id.* This method was to require nominations by the political party for State officers or for officers for districts larger than a county to be authenticated or certified by the nominating body to the Secretary of State, and to the county clerks of the respective counties in case of county or local nominations, and to insert the names of persons so nominated in the official ballot under a party name and emblem. *Id.* The purpose of the emblem is to "designate and distinguish all the candidates of the same political party or independent body." *Id.* This section declares that, if any political party or independent body makes no nomination for the State office, but shall nominate for the office to be filled by the voters of the district of the State, an emblem shall be selected to "designate and distinguish the candidates of that political party or independent body who are named in such certificate." *Id.*

Though no written objection to the nomination has been filed in the office in which the certificate was filed within three days after the filing of the certificate, as may be done under section 65 of this act, any citizen may, under the provisions of section 56 of the act, apply to the Supreme Court, or other proper authority, to review the determination and acts of the police commissioners in regard to the certificate of nomination, which has been filed. *Fernbacher v. Roosevelt* (Sup. Ct., 1 D., 1895), 90 Hun, 441. This section gives the proper courts summary jurisdiction,

on the complaint of any citizen, to review the acts of the officers responsible for the printing of the ballots. *Id.* A citizen is presumably a voter, and as the statute has provided that, upon the complaint of any citizen, the court shall redress any wrong which must have been committed, whether as against himself or against any one else, the court is bound to entertain a complaint made by him relative to the violation of the Election Law. *Id.*

Whether the board of police commissioners render a decision upon written objections, or in their absence, upon any question within the scope of this section, their action may be reviewed. *Fernbacher v. Roosevelt* (Sup. Ct., Chambers, 1895), 14 Misc. 199. This section gives the right to seek a review of their decision, after rendition, to any citizen upon application to a court or judge. *Id.*

This section does not require that candidates shall be nominated by the convention or primary, or by a duly-authorized committee of any convention or primary, or any political party, or authorize such nominations to be made by any convention or primary, or any nominating body. *Matter of Cantine* (Sup. Ct., Sp. T., 1895), 14 Misc. 139. Any political party, whose candidates for State offices polled 10,000 or more votes at the last general election may, by a convention of its members, a duly-authorized committee of the party, or by a primary meeting of its members, place in nomination, a full set of candidates for all State offices to be filled at the general election, and the certificates of such nomination, when made according to the provisions of this section, may be filed with the Secretary of State, as provided by section 58 of this act, and entitle such party to a separate column upon the official ballot. *Id.* With regard to the several districts of the State, such as the county, the senate and assembly districts, and the judiciary districts, such party may name its candidates for the several offices therein, either by a convention or primary held therefor or by a duly-authorized committee of its convention held in either the State or the district thereof, and, upon duly filing the certificates of such nominations, the names of the candidates for these offices may be printed in the column containing the names of the party's candidates for State offices, even though the party did not cast as large as 1 per cent. of the entire vote polled in the particular district. *Id.*

This section applies only to such organized parties, State and local, as polled at the last preceding election the number of votes required to give it the status to make nominations, viz., 10,000 votes in the case of the State party, and 1 per cent. of all the votes cast in the locality, in the case of a local party. *Matter of Hirsh* (Sup. Ct., Sp. T., 1895), 14 Misc. 377. The Election Law was changed at the last session of the legislature (1895) by doing away with separate ballots for each ticket of nominations, and putting all tickets of nominations upon one ballot in separate columns, and also by requiring each ticket to be headed by an emblem, in addition to the former requirements of the party name only. *Id.*

§ 57. **Independent nominations.**—Nominations made as provided by this section shall be known as independent nominations, and the certificate whereby such nominations are made shall be known as an independent certificate of nomination. Independent nominations of candidates for public office to be voted for by all the electors of the state can only be made by six thousand or more voters of the state; provided, however, that in making up such number at least fifty electors in each county of the state (the counties of Fulton and Hamilton to be considered as one county) shall subscribe to the certificate provided for in this section. Independent nominations of candidates for municipal offices to be voted for by all the electors of a municipality can only be made if in a city of the first class by two thousand electors of such city; if in cities of the second class by one thousand electors of such city, and in other cities by five hundred electors thereof. Independent nominations of candidates for a county office in a county in which there is a city of the first class can only be made by two thousand electors of such county. Independent nominations of candidates for public office other than municipal offices to be voted for in a district less than the whole state, but greater than a town or ward of a city, can only be made by one thousand electors or more of the district, except that five hundred voters or more of an assembly or school commissioner district, may make such nomination for member of assembly or school commissioner to be voted for in such district. Independent nominations of candidates for public office to be voted for only by the electors of a town, or a ward of a city, or a village, can only be made by one hundred electors or more of such town, ward or village, except that when such town, ward or village constitutes an assembly or school commissioner district, five hundred or more electors shall be required as above to make such nomination for member of assembly or school commissioner. Independent nominations shall be made by a certificate subscribed by such electors, each of whom shall add to his signature his place of residence, and make oath that he is an elector and has truly stated his residence. The making of the said oath shall be proved by the certificate of the notary or other officer before whom the said oath is taken, and it shall be unnecessary for an elector who has subscribed a certificate of nomination as herein provided, to sign any affidavit as to the matters to which he has made oath as aforesaid. The certificate shall contain the titles of the offices

to be filled, the name and residence of each candidate nominated, and if in a city, the street number of such residence and his place of business, if any; and shall designate in not more than five words the political or other name which the signers shall select, which name shall not include the name of any organized political party. All independent certificates of nomination shall, upon their face, designate and select a device or emblem to represent and distinguish the candidate of the independent body making such nominations, as provided by the fifty-sixth section of this act. The certificate may designate upon its face, one or more persons as a committee to represent the signers thereof, for the purposes specified by section sixty-six of this act. The signatures to the certificate of nomination need not all be appended to one paper. No person shall join in nominating more candidates for any one office than there are persons to be elected thereto, and no certificate shall contain the names of more candidates for any office than there are persons to be elected to such office.

Where, owing to a wrong construction of the statute, the certificate of nomination filed did not contain an authorization to fill out the names of candidates for other offices to be placed on the ballots, and eight days before election a correct certificate was filed, it was held that such certificate be filed *nunc pro tunc*, and proper ballots printed and distributed. *Matter of Grogan*, 34 N. Y. State Rep., 635.

Where a nomination is for an office to be voted for by voters of a district larger than a county, but including a portion of the city of New York, the city of Brooklyn or the county of Kings, a certificate signed by one hundred voters was sufficient before the amendment of chap. 296 of 1891. *People ex rel. Cohn v. Rice*, 33 N. Y. State Rep. 712. By such amendment, the certificate, in such case, must be signed by two hundred and fifty voters.

The certificate of nomination to the office of supervisor in the city of Brooklyn, need not be signed by three thousand voters in order to warrant the representative of the signers in demanding that the name of the candidate, nominated for the office of associate judge of the court of appeals, shall be placed thereon. *People ex rel. Elliott v. Kaiser*, 33 N. Y. State Rep. 713.

Under this section the voters must sign both the oath and the certificate. *People, ex rel. Oliver v. Police Commissioners*, 10 Misc. 200. If they do not, upon signing the certificate of nomination, subscribe the oath required by the statute, the certificate, though regular in all other respects, is not in apparent conformity with the statute, and may be rejected on that account. *Id.* Was not this section so modified by Chap. 810 of 1895 as to do away with this requirement?

§ 58. Places of filing certificates of nomination.—Certificates of nomination of candidates for office to be filled by the electors of the entire state, or of any division or district greater than a county, shall be filed with the secretary of state, except that each certificate of nomination of a candidate for member of assembly for the assembly district composing the counties of Fulton and Hamilton, shall be filed in the office of the county clerk of Fulton county, and a copy thereof certified by the county clerk of Fulton

county shall be filed in the office of the county clerk of Hamilton county, so long as the said counties constitute one assembly district. Certificates of nomination of candidates for offices to be filled by only the electors or a portion of the electors of the city of New York or Brooklyn, shall be filed with the board of police commissioners of the city of New York, or the board of elections of the city of Brooklyn respectively. Certificates of nomination of candidates for offices of any other city, or for officers of a village or town to be elected at a different time from a general election, shall be filed with the clerk of such city, village or town, respectively. All other certificates of nomination shall be filed with the clerk of the county in which the candidates so nominated are to be voted for. All certificates and corrected certificates of nomination, all objections to such certificates and all declination of nominations are hereby declared to be public records; and it shall be the duty of every officer or board to exhibit without delay, every such paper or papers to any person who shall request to see the same. It shall also be the duty of each such officer or board to keep a book which shall be open to public inspection, in which shall be correctly recorded the names of all candidates nominated by certificates filed in the office of such officer or board, or certified thereto, the title of the office for which any such nomination is made, the political or other name and emblem of the political party or independent body making such nomination; and in which shall also be stated all declinations of nominations or objections to nominations, and the time of filing each of the said papers.

§ 59. **The times of filing certificates of nomination.**—The different certificates of nomination shall be filed within the following periods before the election for which the nominations are made, to wit: Those required to be filed with the secretary of state, if party nominations, at least thirty and not more than forty days; if independent nominations, at least twenty-five and not more than forty days; those required to be filed with a county clerk, or the board of police commissioners of the city of New York, or the board of elections of the city of Brooklyn, or with the city clerk of any other city, if party nominations, at least twenty-five and not more than thirty-five days; if independent nominations, at least twenty, and not more than thirty-five days; those required to be filed with a town or village clerk, if party nominations, at least fifteen and not more than twenty days; if independent nominations, at least ten and not more than twenty

days. In case of a special election ordered by the governor under the provisions of section four of the election law, the certificates of nominations for the office or offices to be filled at such special election shall be filed with the proper officer or board not less than fifteen days before such special election.

§ 60. Certification of nominations by secretary of state.—The secretary of state shall, fourteen days before the election, certify to the county clerk of each county, except New York and Kings, and to the board of police commissioners of the city of New York, and to the board of elections of the city of Brooklyn, the name, residence and place of business, if any, of each candidate nominated in any certificate so filed for whom the electors of any such county or city, respectively, may vote, the title of the office for which he is nominated, the party or other political name specified in such certificate, and the emblem or device chosen to represent and distinguish the candidates of the political party or independent body making such nominations.

By this section, the Secretary of State, upon expiration of the time for filing certificates of nomination, must certify to the board of police commissioners, the name, residence and place of business, if any, of each candidate nominated in any certificate so filed for whom voters may vote, the title of the office for which he is nominated, the party or other political name specified in such certificate, and the emblem or device chosen to represent and distinguish the candidates of the political party or independent body making such nominations. *Fernbacher v. Roosevelt* (Sup. Ct., Chambers, 1895), 14 Misc. 199.

It is the duty of the county clerk to prepare the ballots for the election, and this he must do from the certificates of nominations filed in his office in the case of county or less local nominations and from the certificate to him by the Secretary of State of all nominations for offices to be voted for by the electors of the whole of the State or of any district of the State larger than a county. *Matter of Hirsh* (Sup. Ct., Sp. T., 1895), 14 Misc. 377.

§ 61. Publication of nominations.—At least six days before an election to fill any public office the county clerk of each county, except New York and Kings, the board of police commissioners of the city of New York, shall cause to be published in not less than two nor more than four newspapers within such county or city respectively, a list of all nominations of candidates for offices to be filled at such election, certified to such clerk or board by the secretary of state, or filed in the office of such clerk or board, and in the city of Brooklyn the board of elections of the

city of Brooklyn shall cause such publication to be made in the newspapers designated as corporation newspapers of said city. Such publication shall contain the name and residence, and if in a city, the street number of the residence and place of business, if any, and the party or other designation of each candidate, and a fac simile of the emblems or devices selected and designated as prescribed by the fifty-sixth and fifty-seventh sections of this act, to represent and distinguish the candidates of the several political parties or independent bodies. The city clerk of each city, except New York and Brooklyn, and the boards named in such cities, shall at least six days before an election of city officers thereof, held at a different time from a general election, cause like publication to be made as to candidates for offices to be filled at such city election in at least two newspapers published in such city. One of such publications shall be made in a newspaper which advocates the principles of the political party that, at the last preceding election for governor, cast the largest number of votes in the state for such office; and another of such publications shall be made in a newspaper which advocates the principles of the political party that at the last preceding election for governor cast the next largest number of votes in the state for such office. The clerk or board, in selecting the papers for such publications, shall select those which, according to the best information he can obtain, have a large circulation within such county or city. In making additional publications, the clerk or board shall keep in view the object of giving information, so far as possible, to the voters of all political parties; and in no event shall additional publications be made in two newspapers representing the same political party. The clerk or board shall make such publication twice in each newspaper so selected in a county or city in which daily newspapers are published; but if there be no daily newspaper published within the county, one publication only shall be made in each of such newspapers. Should the county clerk find it impracticable to make the publication six days before election day in counties where no daily newspaper is printed, he shall make the same at the earliest possible day thereafter, and before the election.

A list of the certified names must be published at least six days before election and sample copies of the ballots must be prepared and ready for public inspection seven days before election. Matter of Woodworth, 43 State Rep'r, 432; 64 Hun, 522.

The board of police commissioners of the city of New York, in making the selection of papers for publishing nominations under section 61 of the Election Law, acts judicially, and its action may be reviewed by certiorari. *The People, ex rel. Press Publishing Company v. Martin*, 142 N. Y. 228; affirming 72 Hun, 354. They cannot, under this act, arbitrarily designate the newspapers without any inquiry or any effort to obtain the best information as to their circulation. *Id.* They must act in good faith and seek for information as to the circulation of the papers, and, in making the designation they must act according to the best information they can obtain. *Id.* But they are not bound to resort to any particular evidence nor to give the various newspaper representatives a formal hearing. *Id.* They can receive affidavits, examine books or make other inquiries satisfactory to them for the purpose of ascertaining which of the newspapers has the largest circulation within the city. *Id.* If they are furnished with formal proof by the representatives of any newspaper, they must receive and act upon it. *Id.* If evidence, not open to suspicion, doubt or question, is furnished to them, showing that any particular newspaper has the largest circulation, they should receive and act upon such evidence, giving to it its proper force and effect. *Id.* In other words, they should act in good faith, seeking for the best information to guide them in the exercise of their judicial discretion in the selection of the newspaper under the act. *Id.* All sources of information are open to them as they are open to assessors of property for taxation who are to proceed upon diligent inquiry and the best information they can obtain. *Id.*

§ 62. **Lists for town clerks and aldermen.**—The county clerk of each county, except New York and Kings, shall at least six days before election day, send to the town clerk of each town, and to an alderman of each ward in any city in the county, at least five and not more than ten printed lists for each election district in such town or ward, containing the name and residence, and if in a city, the street number of residence, and place of business, if any, and the party or other designation, and also a fac simile of the emblem or device of each political party or independent body nominating candidates to be voted for by the electors of the respective towns and wards. Such lists shall, at least three days before the day of election be conspicuously posted by such town clerk or alderman in one or more public places in each election district of such town or ward, one of which shall be at each polling place.

§ 63. **Posting town and village nominations.**—Each town and village clerk shall cause at least ten copies of a like list of all nominations to office filed with him to be conspicuously posted in ten public places in the town or village, at least one day before the town meeting or village election, one of which copies shall be so posted at each polling place of such town meeting or village election.

§ 64. **Declination of nomination.**—The name of a person nominated for any office shall not be printed on the official ballot if he notifies the officer with whom the original certificate of his nomination is filed, in a writing signed by him and duly acknowl-

edged, that he declines the nomination, or if nominated by more than one political party, or independent body, the name of a person so nominated shall not be printed on the ticket of a party or independent body whose nomination he shall in like manner decline. If the declination be of a party nomination filed with the secretary of state, such notification shall be given at least twenty-five days, and if an independent nomination, at least twenty days before the election. If the declination be of a party nomination filed with a county clerk or the board of police commissioners of the city of New York, or the board of elections of the city of Brooklyn, or with the city clerk of any other city, such notification shall be given at least twenty days, and if of an independent nomination, at least eighteen days before the election. If the declination be of a party nomination filed with a town or village clerk, such notification shall be given at least ten days, and if of an independent nomination, at least seven days before the election. The officer to whom such notification is given, shall forthwith inform by mail or otherwise, the committee, if any, appointed on the face of such certificate as permitted by section fifty-six and fifty-seven of this act, and otherwise one or more persons whose names are attached to such certificate, that the nomination conferred by such certificate has been declined, and if such declination be filed with the secretary of state, such officer shall also give immediate notice by mail or otherwise, that such nomination has been declined, to the several county clerks or other officers authorized by law to prepare official ballots for election districts affected by such declination.

§ 65. Objections to certificates of nomination.—A written objection to any certificate of nomination may be filed with the officer with whom the original certificate of nomination is filed within three days after the filing of such certificate. If such objection be filed, notice thereof shall be given forthwith by mail to the committee, if any, appointed on the face of such certificate for the purposes specified in section sixty-six of this act, and also to each candidate placed in nomination by such certificate. The questions raised by such written objection shall be heard and determined as prescribed in section fifty-six of this act.

A ticket for candidates for town office, nominated and filed according to law, should be printed by the town clerk for the popular vote, without regard to what political name the body of voters who nominated it assumed. *People ex rel. Wallace v. Ryan*, 60 Hun, 398. A mandamus will lie to compel him to do so in case he delays action, even without a formal refusal to act. *Id.* The clerk is excused, by the statute, from passing upon the objections, if an order shall be

made by a court of competent jurisdiction on or before Wednesday preceding election. *Id.* The object of the law was not that the town clerk should make the order upon the objection before the court could make an order. *Id.* This would defeat the law in some instances. The clerk might delay his decision until it was too late to print the ticket. *Id.*

See note under section 50.

The county clerk primarily hears, investigates and decides upon the validity of the objections. *Matter of Woodworth*, 46 State Rep'r, 432; 64 Hun, 523. Unless an order shall be made in the matter by a justice of the Supreme Court, or a court of competent jurisdiction, the county clerk's decision is final. *Id.* Any party interested can apply to a justice of the Supreme Court to investigate and decide between the contending candidates. *Id.*

The exigencies of the case must always prevent much delay in the investigation and decision of the question. *Id.*

An order made by a judge under this section is not appealable. *Id.*

A member of a county committee, who is not one of the candidates nominated, is not an aggrieved or interested party. *Id.*

In proceedings under section 65 of the Election Law, the decisions of party conventions, committees or caucuses are not binding upon, and have no weight with, the court. *Matter of Brvat*, 6 Misc. 445. One of the purposes of the law is to determine whether the action of such bodies is in conformity with the laws of the State. *Id.*

Recent legislation has been such as to bring within the law the action of all party caucuses, conventions and committees, and subject them to the supervision and control of the courts. *Id.* Under our form of government, the primaries, caucuses and conventions of parties should be surrounded by all the safeguards, and be conducted with the same conformity to law, that our regular elections should be. *Id.* Whether they have been so conducted, is to be determined by the courts in the same manner as every other controversy that is brought before them. *Id.*

Where the duty is cast upon courts and judges of determining the regularity and fairness of political methods, those methods must be subjected to the same tests as would those of any other body of men whose good faith is questioned, and no court or judge would be justified in sustaining them when found to be inconsistent with that degree of sound morals which must characterize an ordinary affair of business, even though they are recognized and approved by senatorial and State conventions of the same political organizations. *Matter of Woodworth*, 16 N. Y. Supp. 147.

A local faction which supports the State nominees of the party, may print the names of its local nominees on the ballots with those of such State nominees, though such faction was not recognized by the preceding State convention. *Matter of Mitchell*, 81 Hun, 401. In making up the various official ballots, the county clerk takes into consideration the nominations for State and district offices which have been certified to the secretary of state and the nominations for local offices which appear upon certificates filed in his office. *Id.* In combining the names to go upon a particular official ballot, he is to select, so far as party nominations are concerned, the candidates nominated by one and the same party. *Id.* When there are two sets of nominations of the same political party so far as local offices are concerned, both coming from rival organizations which claim to be parts of the same political party, the county clerk cannot refuse to place one of such sets of nominations on a ballot with the State nominees of such party, simply because the faction which made the nomination was not recognized by the last State convention of such political party. *Id.* His duty is to inquire and determine, as a matter of fact, whether the faction is really a part of such party or not, and if so, its local candidates should be named on the ballot with the nominations for State offices made by such party, and if not, they should have a ballot by themselves with blanks, so far as relates to nominations for State offices. *Id.*

This section, which provides that a written objection to any certificate of nomination may be filed in three days after the filing of such certificate, is not exclusive. *Fernbacher v. Roosevelt* (Sup. Ct., 1 D., 1895), 90 Hun, 441.

This section of the act, which provides for objections to certificates of nomination, is not restrictive of section 56, relating to the "construction, validity or legality," of any certificate of nomination filed, but adds thereto by providing that "written objections" may be filed, and indicates the course of procedure thereon. *Fernbacher v. Roosevelt* (Sup. Ct., Chambers, 1895), 14 Misc. 199. This section relates to written objections and procedure when they are filed and before decision has been rendered. *Id.*

§ 66. **Filling vacancies in nominations, and correction of certificates.**—Subdivision 1. If a nomination is duly declined, or a candidate regularly nominated dies before election day, or is found to be disqualified to hold the office for which he is nominated, or if any certificate of nomination is found to be defective but not wholly void, the committee appointed on the face of such certificate of nomination, as permitted by sections fifty-six and fifty-seven of this act, may make a new nomination to fill the vacancy so created, or may supply said defect, as the case may be, by making and filing with the proper officer a certificate setting forth the cause of the vacancy or the nature of the defect, the name of the new candidate, the title of the office for which he is nominated, the name of the original candidate, the name of the political party or other nominating body which was inscribed on the original certificate, and such further information as is required to be given by an original certificate of nomination; except that where a certificate is filed pursuant to this section to fill a vacancy it shall not be lawful to select a new emblem or device, but the emblem or device chosen to represent and distinguish the candidate nominated by the original certificate shall be used to represent and distinguish the candidate nominated, as provided by this section. The certificate so made shall be subscribed and acknowledged by a majority of the members of the committee, and the members of the committee subscribing the same shall make oath before the officer or officers before whom they shall severally acknowledge the execution of the said certificate that the matters therein stated are true to the best of their information and belief. Except in a case as provided for in subdivision two of this section, the said certificate shall be filed in the office in which the original certificate was filed, at least six days before the election, if filed in the office of a town or village clerk; at least fifteen days before the election if filed with the county clerk or the board of police commissioners of the city of New York, or the board of elections of the city of Brooklyn,

or the city clerk of any other city; and at least fifteen days if filed with the secretary of state, and upon being so filed shall have the same force and effect as an original certificate of nomination. When such certificate is filed with the secretary of state, he shall, in certifying the nomination to the various county clerks and other officers, insert the name of the person who has been nominated as prescribed by this section, instead of that of the candidate nominated by the original certificate, or, if he has already sent forward his certificate, he shall forthwith certify to the proper clerks and other officers the name of the person nominated as prescribed by this section, and such other facts as are required to be stated in a certificate filed pursuant to this section. When no nomination shall have been originally made by a political party, or by an independent body for an office, or where a vacancy shall exist, it shall not be lawful for any committee of such party or independent body authorized to make nominations, or to fill vacancies, to nominate, or substitute the name of, a candidate of another party, or independent body for such office; it being the intention of this act that when a candidate of one party is nominated and placed on the ticket of another party or independent body, such nomination must be made at the time and in the manner provided for making original nominations by such party or independent body.

Subdivision 2. In case of the death of a candidate after the official ballots have been printed, and before election day, the vacancy may be filled by filing the proper certificate of nomination of a candidate to fill such vacancy, with the officer or board with whom the original certificate was filed, and it then shall be the duty of the officer or board furnishing the official ballots to prepare and furnish to the inspectors of election in the election districts affected adhesive pasters containing the name of the candidate nominated to fill the vacancy, and the title of the office for which he was nominated. The pasters shall be of plain white paper, printed in plain black ink and in the same kind of type used in printing the titles of the offices and the names of the candidates upon the official ballots, and shall be of a size as large and no larger than the space occupied upon the official ballot by the title of the office and the name of the candidate in whose place the candidate named upon the paster has been nominated. If the candidate be one of a group of candidates, such official paster shall contain the name of the candidate but not the title of the office. Whenever such pasters are provided, the officer or

board furnishing them shall certify to the inspectors of election in the election districts affected by the vacancy, the name of the original candidate, the name of the new nominee, the title of the office for which the nomination is made, and the name of the political party or independent body making the nomination, and shall state the number of pasters furnished, which number shall be equal to the number of official ballots furnished for such district. Upon the delivery of said pasters, the inspectors of election shall sign a receipt for the same, which receipt shall be retained by the officer or board furnishing the pasters, and shall be part of the record of his or their office. The inspectors shall deliver the pasters to the ballot clerks, who are required to affix one of such pasters in the proper place and in a proper manner upon each official ballot before said ballot shall be delivered to a voter. When so affixed to the official ballot, the pasters shall be considered as being part of the official ballot. The ballot clerks shall include in their statement of ballots a statement showing the number of pasters received by them, the number of pasters affixed to official ballots and the number of unused pasters returned by them, the unused pasters to be enclosed in the package of ballots not delivered to voters. The use of any paster upon the official ballot otherwise than as herein provided is hereby declared a felony, punishable by imprisonment in a state prison for not less than one nor more than five years.

ARTICLE IV.

Official and Sample Ballots, Instruction Cards and Stationery.

Section 80. Official ballots for elections.

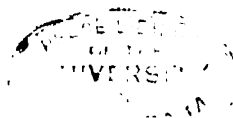
81. Form of general ballot.
82. Form of ballot for questions submitted.
83. Sample ballots, instruction cards and stationery.
84. Blank forms for election officers.
85. Number of official ballots.
86. Officers providing ballots and stationery.
87. Distribution of ballots and stationery.
88. Errors and omissions in ballots.
89. Unofficial ballots.

§ 80. Official ballots for elections.— Official ballots shall be provided at public expense at each polling place for every election

at which public officers are to be elected directly by the people, except an election of school district officers or school officers of a city or village at which no other public officer is to be elected.

§ 81. **Form of general ballot.**— There shall be provided at each polling place at each election at which public officers are voted for, but one form of ballot for all the candidates for public office, and every ballot shall contain the names of all the candidates whose nominations for any office specified on the ballot have been duly made and not withdrawn, as provided in this act, together with the title of the office arranged in tickets under the titles of the respective political parties or independent bodies, as certified in the certificates of nomination. All ballots shall be printed in black ink on clear white, book paper, free from ground wood, five hundred sheets of which, twenty-five by thirty-eight inches in size, shall weigh sixty pounds, and which shall test for that size and weight at least twenty points on a Morrison tester. Every such ballot printed in accordance with the provisions of this act, shall contain a party device for each political party represented on the ticket in accordance with the provisions of section fifty-six of this act. The arrangement of the ballot shall, in general, conform as nearly as practicable to the plan hereinafter given. The lists of candidates of the several parties shall be printed in parallel columns, each column to be headed by the chosen device of such party, and the party name or other designation in such order as the secretary of state may direct, precedence, however, being given to the party which polled the highest number of votes for governor at the last preceding general election for such officer, and so on. The number of such columns shall exceed by one the number of separate tickets of candidates to be voted for at the polling place for which the ballot is provided, except as otherwise provided in this section. The party name shall be printed in display, the name or designation of the office in brier lower case, and the name of the candidate therefor in brier capital type. The title of the office, together with the name of the candidate therefor shall be printed in a space one-half inch in depth, and at least two inches in width defined by light horizontal ruled lines, with a blank space on the left thereof, one-fourth of an inch wide, inclosed by heavier dark lines, which space (called the voting space) shall be of the same depth as the space containing the title of the office and the name of the candidate; provided, however, that when two or more persons are to

be voted for, for the same office, for the same term, on the same party ticket, as for instance, presidential electors, the title of the office shall be printed in the first space only, which space shall be half an inch in depth and the several spaces in which only such candidates' names are printed, and the voting spaces to the left thereof, shall each be one-fourth of an inch in depth between the horizontal ruled lines. On the right of each ballot shall be a column in which shall be printed only the titles of the offices for which candidates may be voted for by the electors at the polling place for which the ballot is printed. Such column is designated as the "blank column," and in such column the voting spaces shall be omitted, but in all other respects such blank column shall be a duplicate of the political party columns upon such ballot. In the space in such column above the heavy ruled line shall be printed in great primer Roman condensed capitals the words "blank column," and below such words shall be printed in brevier capital type the following: "The elector may write in the column below, under the title of the office, the name of any person whose name is not printed upon the ballot, for whom he desires to vote." At elections at which presidential electors are to be voted for, the names of the candidates for president and vice-president shall be placed on the ticket immediately below the name of the party making the nominations, and above the heavy ruled line preceding the names of the presidential electors, and shall be printed in type known as great primer Roman condensed capitals. The heading of each party ticket, including the name of the party, the device above, and the circle between the device and such name, shall be separated from the rest of the ticket by a heavy printed line, and the circle above the name of the party shall be defined by heavier lines than the lines defining the blank spaces before the names of candidates, and such circle shall be surrounded by the following, printed in heavy faced nonpareil type: "For a straight ticket, mark within this circle." Provided, however, that in the case of nominations provided for in section fifty-seven of this act, designated as "independent nominations," the ballot shall be so arranged that at the right of the last column for nominations designated in section fifty-six as "party nominations," the several tickets of the names of the candidates independently nominated shall be printed in one or more columns according to the space required, having above each of the tickets the political or other name selected to



designate such independent nominations, and the circle and also the device or emblem to represent and distinguish the candidates of the several independent bodies making such nominations. The independent tickets occupying the same column shall be separated from each other by a solid black line one-eighth of an inch wide. At the top of the column, and above the first emblem in each of such columns for independent nominations, shall be printed in type known as great primer Roman condensed capitals the words "independent nominations." Each column upon the ballot shall be bordered on either side by a broad solid printed line one-eighth of an inch wide and the edge of the ballot on either side shall be trimmed off up to the border or solid line described. The ballots shall be so printed as to give each elector a clear opportunity to designate by a cross X mark in a large blank circle three-quarters of an inch in diameter, below the device, and above the name of the party at the head of the ticket or list of candidates, his choice of a party ticket and desire to vote for each and every candidate thereon, and by a cross X mark in a blank inclosed space, heretofore designated as the voting space, on the left of and before the name of each candidate, his choice of particular candidates. The ballot shall be printed on the same leaf with a stub, and separated therefrom by a perforated line. The part above the perforated line designated as the stub shall extend the entire width of the ballot, and shall be of sufficient depth to allow the instructions to voters to be printed thereon, such depth to be not less than two inches from the perforated line to the top thereof. Upon the face of each stub shall be printed in type known as brevier capitals the following:

"This ballot should be marked in one of two ways with a pencil having black lead. To vote a straight ticket, make a cross X mark within the circle above one of the party columns. To vote a split ticket, that is, for candidates of different parties, the voter should make a cross X mark before the name of each candidate for whom he votes. If the ticket marked in the circle for a straight ticket does not contain the names of candidates for all offices for which the elector may vote, he may vote for candidates for such offices so omitted, by making a cross X mark before the names of candidates for such offices on another ticket, or, by writing the names, if they are not printed upon the ballot, in the blank column under the title of the office. To vote for a person not on the ballot, write the name of such person under the

title of the office in the blank column. Any other mark than the cross X mark used for the purpose of voting or any erasure made on this ballot, makes it void, and no vote can be counted hereon. If you tear, or deface, or wrongly mark this ballot, return it and obtain another."

On the back of the ballot, below the stub, and immediately at the left of the center of the ballot, shall be printed in great primer Roman condensed capitals the words: "Official ballot for," and after the word "for" shall follow the designation of the polling place for which the ballot is prepared, the date of the election, and a fac simile of the signature of the officer who has caused the ballots to be printed. Ballots for town meetings not held at the same time with a general election shall be indorsed "Town," and for village elections, "Village." On the back of the stub, and immediately above the center of the indorsement upon the back of the ballot, shall be printed the consecutive number of the ballot beginning with "No. 1," and increasing in regular numerical order. All of the official ballots of the same sort prepared by any officer or board for the same polling place, shall be of precisely the same size, arrangement, quality and tint of paper, and kind of type, and shall be printed with black ink of the same tint, so that when the stubs numbered as aforesaid shall be detached therefrom, it shall be impossible to distinguish any one of the ballots from the other ballots of the same sort, and the names of all candidates printed upon the ballot shall be in type of the same size and character. If two or more officers are to be elected to the same office for different terms, the term for which each is nominated shall be printed upon the ballot as a part of the title of the office. If at a general election one representative in congress is to be elected for a full term and another to fill a vacancy, the ballots containing the names of the candidate shall, as a part of the title of the office, designate the term to fill which such candidates are severally nominated. When no nomination has been made by a political party, as designated by section fifty-six, for an office to be filled at the election, the title of such office shall be printed in such party column, and underneath such title shall be printed in brevier capital type the words "No nomination." No ticket or list of candidates shall be printed, under the name of any political party or independent body which contains more candidates for any office than there are persons to be elected to such office.

Under the laws in force, governing the conduct of elections and the manner of voting, prior to the legislation of 1890, ballots could be counted for the candidate for whom they were cast, though they did not, in all respects, correspond with the direction of the statute; and, after being deposited in the box, could not, probably, be rejected in any case, by the canvassers or the court, if the intention of the voter was sufficiently expressed. *People ex rel. Nichols v. Board, etc.*, 129 N. Y. 395.

Any construction of the present statute which will permit ballots to be cast and counted that contain any caption or word that will reveal the way the voter using them voted, should be avoided as contrary to the true policy and intent of the law. *Id.* The idea at the very foundation of the law is secrecy. *Id.*

The endorsement upon an official ballot is an essential part of the machinery of elections by means of which the secrecy of voting is to be secured and enforced. *Id.* This endorsement is to be precisely the same on all the ballots used at the same polling place or election district. *Id.* A different, distinct or peculiar endorsement upon the ballots, or any of them, used by any party or candidate, or set of candidates, will remove all secrecy from the act of voting, as to the electors who use ballots with such an endorsement, and thus the fundamental purpose of the law will be defeated. *Id.* Upon all the official ballots used at any polling place, there shall be printed in the same manner the same endorsement, and the designation or number of the election district in the endorsement shall be precisely the same. *Id.* In all cases, such designation or number shall be that of the polling place or election district where the vote is offered, and no other. *Id.* Where the ballots are not endorsed with the number of the election district in which they are used by the electors, as required by the statute, but are, in fact, endorsed with the number of another district, they cannot lawfully be counted for the candidate for whom they are cast, but should be excluded from computation by the canvassers. *Id.* It is the duty of the election officers, when offered one of these ballots, prepared for and endorsed with the designation or number of another district, to refuse it. *Id.* The canvassers must reject, and treat as void, all such ballots when found in the ballot box. *Id.* Though these ballots may have been misplaced by design or some preconcerted arrangement between the county clerk and the candidates whose names appear thereon, or some of them, they must not, nevertheless, be counted. *Id.* The act does not regard the motives of those who violate the law by improperly endorsing ballots, but condemns the act and prescribes the punishment for its commission, whatever may have been the cause or motive for its perpetration. *Id.* The rejection must necessarily follow the commission of the prohibited act, whatever may have been the ignorance or intention of the voter, or any other person connected with the act of voting, for the canvassing officers are imperatively directed not to receive or count the improperly endorsed ballot. *Id.* See, further, *Commonwealth v. Woelper*, 3 S. & R. 29; *West v. Ross*, 53 Mo. 350; *Oglesby v. Sigman*, 56 Miss. 502; *State v. McKinnon*, 8 Ore. 493; *Reynolds v. Snow*, 67 Cal. 497; *Talcott v. Philbrick*, 59 Conn. 472; *Fields v. Osborne*, 21 Atl. 1070; *In re Vote Marks*, *id.* 962; *Ledbetter v. Hall*, 62 Mo. 422; *Perkins v. Carraway*, 59 Miss. 222; *Steele v. Calhoun*, 61 *id.* 556.

The present act has changed the place for printing the designation of the polling place from the back of the ballot to the face of the stub, section 81, but the principle of law remains the same.

The nominations of candidates for all offices to be chosen at a general election in pursuance to statute, must be made and filed in accordance with the methods prescribed for general elections. *Matter of McLaren v. County Clerk, etc.*, 34 N. Y. St. Rep. 634. In such case, the county clerk must place the duly nominated candidates for these offices upon the official ballots which he prepares for such election districts. *Id.* In the case cited, it was so held in respect to candidates for the office of police commissioners for the village of West Troy, whose charter provides that its police commissioners shall be elected at the general election. *Id.*

Under this section, the ballots that are deposited in any box except that in which the ballots for town officers were deposited, should not be counted. *Montgomery v. O'Dell*, 51 St. Rep., 444.

This statute was not intended to prevent the voter from voting for any candidate whom he chose, though such candidate was not nominated by any particular party. *Id.* Such a ballot is valid when affixed to the regular official ballot.

whether the candidate was regularly nominated or not, and though the statute forbids the clerk from putting any name on the official ballot except those nominated and certified as having been made by a political convention or by the certificate mentioned in section 57. *Id.* The plan contained in the Ballot Reform Act is a provision for the printing of an official ballot at the public expense, a feature well designed to secure the desired secrecy and independence of the ballot. *Id.*

Under this law, where no certificate of the nomination of candidates for the offices to be voted for was filed with the clerk, ballots printed and furnished by him, containing all the names of the candidates, except one, and used and treated as official ballots by the electors, should be regarded and treated as valid, and a vote for the candidate whose name was omitted, pasted on such ballot, considered valid. *Id.*

When the inspectors of election fail to certify the election of any person to fill an office, and one candidate receives the only valid vote cast, it is sufficient to give him an apparent authority or color of title to the office. *Id.*

Chap. 214 of 1892, authorizing women to vote for the office of school commissioner, is in violation of § 1, art. 2 of the State Constitution. *Matter of Gage*, 5 Misc. 375; 141 N. Y. 112. Women, therefore, are not entitled to vote for such office. *Id.*

The directions as to official ballots and the form of such ballots are not general. *Matter of Taylor* (Sup. Ct., 2 D., 1896), 3 App. Div. 244. If there are no public officers to be elected by the people at an election, no official ballots are prescribed, and there is no requirement that the ballots voted shall be of any particular character. *Id.* The whole of article 4 of the Election Law is limited to elections at which public officers are to be elected. *Id.*

No names can be legally printed on an official ballot under a party name and emblem, other than those of candidates who have been duly nominated and certified by such party for the offices designated. *Matter of Madden*, 148 N. Y. 136. Under the Election Law of 1892, separate ballots were required to be furnished for the nominations of the party as certified. *Id.* But, under the amendment of 1895, the blanket ballot was adopted as the form of the official ballot. *Id.* The device or the party emblem to be placed at the head of each party ticket or independent nomination, given with the party designation, were provided for by the act, and, in case of what are called party nominations, the names of each party are required to be printed in a separate column under the party name and emblem. *Id.* They are to be "arranged in tickets or lists under the respective party, or political or other designation certified." *Id.* The right to a column depends upon a nomination having been made and certified. *Id.* The statute does not permit a voter to write in the blank column of the ballot the name of a person for whom he desires to vote if his name is printed in any of the lists in connection with the same office. *Id.*

It was the intention of the Election Law of 1895 to spread before the voter the names of the various persons for whom he is called upon to vote, and he is allowed to vote a straight party ticket or a straight independent ticket or an eclectic ticket, as he sees fit. *Fernbacher v. Roosevelt* (Sup. Ct., 1 D., 1895), 90 Hun, 441. The devices or emblems were resorted to in order to enable the illiterate voter to attain these ends. *Id.* It was the intention of the law that there should be a single column for a single party and a single device at the head of that column, so that the voter who desires to vote a straight ticket may vote the ticket under that column. *Id.* The certificates of nomination relative to State offices, and the emblem which is to head the ticket nominated, must be filed with the Secretary of State. *Id.* Where the convention of a party has been regularly called, has made its nominations and has sent its certificates to the Secretary of State, containing the emblem of that party, that device controls and must head the nominations of that party. *Id.* Where there are several factions of a party in one county, the State convention decides which faction is regular, and because of such decision as to its regularity, that one faction becomes entitled to the sole use of the party emblem for its local candidates. *Id.* The State party can have but one emblem, and that, so far as the candidates of the State party are concerned, is controlling upon all the local factions within the party. *Id.* The ticket of each party for State officers must be in the single column and headed by such party's chosen emblem. *Id.* Where an independent party, or a faction, or an individual, claims the right to be upon the State ticket, it or he must make the nomination in the manner prescribed by the statutes, and file his certificate with the Secretary of State, who is the sole source of information to the county officers as to the persons who have been put in nomination for State offices. *Id.* An independent party may nominate the same individuals, but it must nominate them as an independent party, place them under its device and list them under its ticket. *Id.* Where the local faction files a certificate with the board of police examiners relative to local nominations, with the notice that it has indorsed certain state nominations, this is not a compliance with the statute and does not constitute the legal nomination of any person in their behalf, for the State office. *Id.* Where the Secretary of State has certified the nominations in the order in which they have been received by him, and in which they are entitled by the provisions of the law to be put upon the ballot, the police commissioners cannot ignore that certificate. *Id.*

By this section, it is provided that the tickets or lists of candidates of the various parties shall be printed in parallel columns, headed by the chosen device and party name or other designation, in such order as the Secretary of State shall direct. *Fernbacher v. Roosevelt* (Sup. Ct., Chambers, 1895), 14 Misc. 199. The plain intent of the legislature, as to nominations and emblems for State candidates, was to restrict the contents of the ballot to those candidates whose names had been legally filed

in the Secretary of State's office, and by him certified to local officials, together with the emblems. *Id.* The certificate of the Secretary of State as to the names of candidates for State offices, emblems of parties and the order of position on the ballot, is binding on the board of police commissioners, and the board has no power to allow the State ticket of the party to be printed in a separate column under the emblem of the local organization in connection with the local ticket of such organization. *Id.* There is no authority, either expressed or implied, to be found in the Election Law, giving the board of police commissioners the right or semblance of the right to reverse, affect, nullify or interfere with the official action of the Secretary of State, shown by his certificate. *Id.*

This section provides that all nominations shall be printed upon one ballot, in parallel columns, and that the ticket, or lists of candidates, of each party shall be put in a separate column. *Matter of Hirsh* (Sup. Ct., Sp. T.), 14 Misc. 377. The law casts upon the county clerk the duty of combining allied nominations and of thereby making up the tickets and the ballots from the certificates of nomination. *Id.* The State cannot take on itself the providing of the only ballots which the voters may use, and then disfranchise them for using the ballots which it furnished. *Id.* Election officers cannot by their mistakes, or even by their misconduct, disfranchise voters. *Id.* If there is any exception to this rule, it arises out of the unsurmountable obstacles of the particular case. *Id.*

§ 82. Form of ballot for questions submitted.— Whenever the adoption of a constitutional amendment or any other proposition or question is to be submitted to the vote of the electors of the state, or of any district thereof, a separate ballot shall be provided by the same officers who are charged by law with the duty of providing the official ballots for candidates for public office. Such ballots shall comply with the requirements for official ballots for candidates for public office, in so far as such requirements are applicable thereto. Under the perforated line shall be clearly printed, in brier lower case type, the question of the adoption of the constitutional amendment or other proposition or question upon which the electors within the district for which such ballot is provided may lawfully vote. If there be more than one constitutional amendment or proposition or question to be submitted to the voters of that district, the different amendments or propositions or questions shall be separately numbered and printed, and separated by a broad solid line one eighth of an inch wide. Opposite and before each such amendment, question or proposition so submitted, shall be printed two squares inclosed in ruled lines, one above the other. Preceding the upper one of such squares shall be printed the word "Yes," and preceding the

lower one of such squares shall be printed the word "No." At the top of each such ballots, immediately above the perforated line, shall be printed in brevier capital type the following words only: "Notice to electors. For an affirmative vote upon any question submitted upon this ballot, make a cross X mark in the square after the word 'Yes.' For a negative vote, make a similar mark in the square following the word 'No.'" All such ballots for the same polling place shall be of the same color and size, and similarly printed, so that, after the removal of the stub, which shall be numbered as in cases of ballots for candidates for public office, it shall be impossible to identify or distinguish any one of such ballots from the others. On the back of each such ballot, below the stub, shall be printed in addition to the indorsement as prescribed for general ballots, the words "Questions submitted," so as to distinguish the said ballots from the official ballots for candidates for office.

This section, as amended by chapter 810 of 1895, directs that whenever a constitutional amendment or other proposition or question is to be submitted to the vote of the electors of this State or of any district thereof, a separate ballot shall be provided by the same officers who are charged by law with the duty of providing the official ballots for candidates for public office. *Matter of Taylor* (Sup. Ct., 2 D., 1896), 3 App. Div. 214. Such ballots shall comply with the requirements for official ballots for candidates for public office in so far as such requirements are applicable thereto. *Id.* This section may be well limited to elections at which public officers are to be elected. *Id.*

§ 83. Sample ballots and stationery.— Sample ballots, equal in number to twenty-five per centum of the number of official ballots provided therefor, shall also be provided for every polling place for which official ballots are required to be provided. Such sample ballots shall be printed on paper of a different color from the official ballot, and without numbers on the stubs, but shall, in all other respects, be precisely similar to the official ballots to be voted at that polling place. One of such sample ballots shall, at any time on the day of election, be furnished upon application to any elector entitled to vote at that polling place, and may be taken by him away from such polling place before receiving his official ballot or ballots. Twelve instruction cards, printed in English, and twelve printed in each of such other languages as the officer or officers charged with providing them shall deem necessary, shall also be provided for each such polling place, con-

taining in clear, large type, full instructions for the guidance of electors in obtaining ballots for voting, in preparing their ballots for deposit in the boxes, in returning their ballots to the ballot clerks, and in obtaining new ballots in place of those returned, and, in smaller sized type, a copy of each of the sections of the penal code relating to crimes against the elective franchise. There shall also be provided two poll-books, a suitable number of markers, designated as "distance markers," to indicate the distance of one hundred feet from the polling place, two tally sheets and three complete election return blanks for the use of inspectors and ballot clerks in the forms hereinafter provided, heavy manilla envelopes for statements and returns, sealing wax, pencils having black lead only, pens, penholders, blotting paper and ink. All such articles herein enumerated are hereby designated as "stationery."

§ 84. **Blank forms for election officers.**—The officers charged with the duty of furnishing official ballots shall furnish to the board of inspectors of each election district, two tally sheet blanks, three ballot return sheet blanks, three election return sheet blanks, one of which shall be indorsed "original return," the other "copies of the original return," three blanks for the report of assisted and challenged electors, which blanks shall be delivered to such board of inspectors as elsewhere provided.

Tally sheets.—The tally sheet blanks shall be printed as nearly as possible in the following form:

9

ELECTION CODE.

(Form No. 34. Section 84.)

Tally Sheet.

List of offices.	REPUBLICAN TICKET.	DEMOCRATIC TICKET.	Number of votes cast and counted for each candi- date on straight ballots.	Number of votes cast and counted for each candi- date on split ballots.	Total number of votes cast, and counted for each can- didate.	Number of votes cast and counted for each candi- date on split ballot.	Number of votes cast and counted for each candi- date on straight ballots.	Total number of ballots not wholly blank, on which no vote was counted for the following offices.	Total number of wholly blank ballots.	Total number of void	Total number of ballots accounted for.
Governor	Levi P. Morton.....	David B. Hill.....	800	796	800	796	800	XXX	4	1	1
Lieutenant-Governor.....	Charles T. Saxton.....	Daniel N. Lockwood.....	800	797	800	797	800	//	2	1	1

Tally sheets.—The tally sheet blanks shall be as nearly as possible in the following form: At the extreme left of such sheet there shall be a column headed “List of offices,” in which shall be printed the titles of all the offices printed upon the official ballot, and in the same order. Each office shall be separated by a heavy ruled line running the full width of such sheet. There shall be printed thereon, in separate columns under the name of the respective parties the tickets of all the parties as they appear on the official ballot, so that the names of all candidates for the same office shall be upon the same line. Opposite and to the right of each party or independent ticket or list of candidates, shall be a column headed “Number of votes cast, and counted for each candidate on straight ballots,” in which column and opposite every name, shall be entered the number of straight party votes counted (which number is the same for every candidate of that party). To the right of such column there shall be another column headed, “Number of votes cast and counted for each candidate on split ballots,” and in such column there shall be entered by single marks, grouped into five marks, the votes canvassed for such candidates on the split ballots. To the right of such column shall be another column headed, “Total number of votes cast and counted for each candidate,” in which shall be entered, opposite the name of each candidate, the total number of votes cast and counted for such candidate on both straight and split ballots. To the right of the last column for entering the total vote cast for candidates of any party, shall be a column headed, “Total number of *ballots* not wholly blank, on which no vote was counted for the following offices,” and in such column shall be entered opposite the titles of the respective offices, by single marks, the number of ballots on which no vote was cast for any candidate for such office. To the right of such column shall be another column headed, “Total number of wholly blank ballots,” in which column shall be entered opposite the title of each office the number of ballots found to be wholly blank. To the right of such column shall be another column headed, “Total number of void ballots,” in which column shall be entered opposite each title of each office the number of ballots which were rejected as void. At the extreme right of such sheet there shall be a column headed, “Total number of ballots accounted for,” in which shall be entered opposite each office the sum of the total vote cast for all candidates for the office, together with the number of ballots not wholly blank, on which no vote was counted for

that office, the total number of wholly blank, and the total number of void ballots, and the votes cast, if any, for candidates for such office whose names are not printed upon the ballot. Such sum must equal the number of ballots voted, as shown by the ballot clerks' return of ballots, and if it does not, there has been a mistake in the count, and the ballots must be recounted for such office. In case a person is voted for whose name is not printed on the ballot, the poll clerks, who shall keep the tally sheets, shall enter such name and the votes therefor on the tally sheet. The method of counting the votes shall be as provided in section one hundred and ten of the election law.

Sample.

Form of ballot return to be prepared by the ballot clerks, and attached to the original statement of canvass made by the inspectors and to each copy, in compliance with subdivision two of section one hundred and three of the election law:

1. The number of full sets of official ballots furnished to election district number (five) of the (town of Canandaigua), county of (Ontario), were.....	800
2. The number of sets of official ballots cancelled before delivery to voters by reason of one or more of the set being found defective in printing or mutilated, all of which were destroyed by us, were.....	5
3. The number of sets of official ballots spoiled and returned by voters, all of which were destroyed by us, were	10
4. The number of sets of official ballots returned to the county clerk or other officer, unused, were.....	300
5. The number of sets of official ballots actually voted were	485
6. Total sets of official ballots accounted for are.....	800
7. The number of sets of detached stubs were.....	500
8. The number of sets of stubs on unused ballots were....	300
9. The total sets of stubs accounted for are.....	800

We hereby certify that the foregoing ballot return for election district number (five) of the (town of Canandaigua), county of

(Ontario), for the election held November (5th, 1895), is correct.
 (Signed.)

Ballot Clerks.

Sample.

Inspectors' returns and statement of canvass.— *Original*
 official statement of the result of a (general) election,
 held on the (fifth) day of November (1895), in the (fifth)
 election district of the (town of Canandaigua), county of
 (Ontario), state of New York, made by the inspectors of
 election in and for said district, which return is made as
 provided in section one hundred and eleven of the elec-
 tion law.

RETURN OF BALLOTS VOTED.

- | | |
|--|-----|
| 1. The whole number of general ballots actually voted, as
verified by the return of the ballot clerks attached
hereto were (four hundred and eighty-five)..... | 485 |
| 2. The number of general ballots cast and found to be en-
tirely blank, all of which were returned by us to the
ballot box, were (five)..... | 5 |
| 3. The number of general ballots cast which were rejected
by us as "void" and on which no vote was counted
for any candidate, all of which are in the sealed
package returned herewith, and on each of which
ballot is indorsed the reason for such rejection, were
(ten) | 10 |
| 4. The number of general ballots cast on which votes were
counted for one or more candidates, all of which were
returned to the ballot box (except those protested as
being marked for identification), were (four hundred
and seventy)..... | 470 |
| 5. The total number of ballots accounted for by us are... | 485 |

We certify the foregoing statement of ballots voted is correct
 in all respects.

Dated, this (fifth) day of November, (1895).

.....

Board of Inspectors.

Statement and Return of the Votes for the Office of (Governor).

1. The number of ballots cast on which votes were counted for any candidate for office were (four hundred and seventy)	470
2. The number of ballots cast and counted on which there was no vote for the office of (governor) were (five)....	5
3. The whole number of ballots on which votes were counted for the office of (governor) were (four hundred and sixty-five).....	465
	<hr/>
4. Of which (Levi P. Morton) received (three hundred).....	300
5. (David B. Hill) received (one hundred and sixty-five)....	165
	<hr/>
Total	465
	<hr/>

Statement and Return of the Votes for the Office of (Lieutenant-Governor).

1. The whole number of ballots cast on which votes were counted for any candidate for office were (four hundred and seventy).....	470
2. The number of ballots cast and counted on which there was no vote for the office of (lieutenant-governor) were (seven)	7
3. The whole number of ballots on which votes were counted for the office of (lieutenant-governor) were	
(four hundred and sixty-three).....	463
	<hr/>
4. Of which (Charles T. Saxton) received (three hundred and three).....	303
5. (William F. Sheehan) received (one hundred and sixty)..	160
	<hr/>
Total	463
	<hr/>

Statement and Return of the Votes for the Office of (County Clerk).

1. The whole number of ballots cast on which votes were counted for any candidate for office were (four hundred and seventy).....	470
2. The number of ballots cast and counted on which there was no vote for the office of (county clerk) were (ten) . .	10
	<hr/>

3. The whole number of ballots on which votes were counted for the office of (county clerk) were (four hundred and sixty).....	460
4. Of which (John Doe) received (three hundred and fifteen)	315
5. (Richard Roe) received (one hundred and forty-five)....	145
Total	460

The number of general ballots "protested as marked for identification" (all of which are in the sealed package returned herewith together with the void ballots) each of which have been indorsed by us "protested as marked for identification," the mark or marking to which objection was made being specified upon the back of each such ballot, and all of which were counted for the several candidates voted thereon in the foregoing returns, were (three).....(3)

But such number does not include any ballot which was rejected by us as void. Such void ballots are included in our return as "void" ballots on which no vote for any candidate was counted and are marked upon the back thereof "void" and indorsed with the reason for so declaring them. They are in the sealed package returned herewith together with the ballots "protested as being marked for identification."

We certify the foregoing statement is correct in all respects.

Dated, this (fifth) day of November, (1895).

.....

Board of Inspectors.

Note.—A similar certificate is to be made at the bottom of each sheet or half sheet of this return. If ballots are voted on any constitutional amendment or question or proposition submitted, a similar return is to be included. Two certified copies of this original statement and return are to be made.

Blank for the Report of Assisted and Challenged Electors.

Three blank statements in the following form shall also be furnished to each board of inspectors, which shall, at the close of the election, be filled by them, and one original statement shall be

attached to the original return, and a copy thereof to each copy of the original return.

1. The names of persons who were challenged, and the challenge not withdrawn, were, in all, three(3)
2. The names of persons who received assistance on account of physical disability, were, in all, five(5)
3. The names of persons who received assistance on account of being unable to write by reason of illiteracy, were, in all, two(2)

We certify the foregoing statement is correct.

Dated this (fifth) day of November, 1895.

.

Board of Inspectors.

§ 85. Number of official ballots.—The number of official ballots of each kind to be provided for each polling place for each election to be held thereat, except a town meeting or village election held at a different time from a general election, shall be two times as many ballots as there were names of electors on the register of electors of such district for such election at the close of the fourth meeting for such registration. In cities of the first class the officer or board charged with the duty of furnishing official ballots shall furnish twice as many official ballots of each kind to be provided for such election as there are electors entitled to vote thereat, as nearly as can be estimated by such officer or board. When but two days of registration are required there shall be a number equal to two times the number of names upon the register at the close of the second meeting for registration. The number of official ballots of each kind to be provided for each polling place for a town meeting or village or city election held at a different time from a general election, shall be two times the number of persons who will be entitled to vote thereat, as nearly as can be estimated by the officer charged with the duty of providing such ballots.

§ 86. Officers providing ballots and stationery.—The county clerk of each county except New York and Kings, the board of police commissioners of the city of New York and the board of elections of the city of Brooklyn shall provide the requisite number of official and sample ballots, cards of instruction, two poll-

books, distance markers, two tally sheets, inspectors' and ballot clerks' return sheets (three of each kind, and one of each to be marked "original"), pens, penholders, ink, pencils having black lead, blotting paper, sealing wax and such other articles of stationery as may be necessary for the proper conduct of the election, and the canvass of the votes, for each election district in such county or city respectively, for each election to be held thereat, except that when town meetings, city or village elections and elections for school officers are not held at the same time as a general election the clerk of such town, city or village, respectively, and the boards in the cities of New York and Brooklyn required to provide the same shall provide such official and sample ballots and stationery for such election or town meeting. Each officer or board charged with the duty of providing official ballots for any polling place shall have sample ballots and official ballots provided, and in the possession of such officer or board, and open to public inspection as follows: The sample ballots five days before the election, and the official ballots four days before the election for which they are prepared, unless prepared for a village election or town meeting held at a different time from a general election, in which case the official ballot shall be so printed and in possession at least one day, and the sample ballots at least two days before such election or town meeting. During the times within which the same are open for inspection as aforesaid, it shall be the duty of the officer or board charged by law with the duty of preparing the same, to deliver a sample ballot of the kind to be voted in his district to each qualified elector who shall apply therefor, so that each elector who may desire the same may obtain a sample ballot, similar except as regards color and the number on the stub, to the official ballot to be voted at the polling place at which he is entitled to vote.

The clerk must put a local party's nominees on a ballot with the nominees of the State party with which such local party adheres in fact and in good faith, and to which it belongs. *Matter of Wheeler*, 10 Misc. 55. He must in the same manner associate on the same ballot all kindred party nominations through the various grades from State down to town. *Id.* Whether a particular party's nominations are akin to any other party's nominations, is in every case a question of fact. *Id.* Such questions are to be determined by the county clerk subject to review by the Supreme Court. *Id.*

The duty in providing the official ballots for general elections is cast upon the county clerks of the respective counties, with certain exceptions.

Matter of Madden, 148 N. Y. 136. He can only know officially, from the certificates sent to him from the Secretary of State or those deposited with him, who have been duly nominated, and by what party or parties nominations have been made. *Id.* No authority is conferred on the county clerk to insert any names in the printed lists of candidates of any party except those whose nominations have been duly certified in accordance with the act. *Id.* The certificates of nomination are the only guide which the clerk is authorized to follow in making up the list, and he cannot insert in the column of "the regular Democratic party" any names whose nominations are not certified in its party certificate. *Id.*

This section makes it the duty of the county clerk to prepare ballots for the election. Matter of Hirsch Sup. Ct., Sp. T., 1895, 14 Misc. 377. This he has to do from the certificates of nominations filed in his office in the case of county or less nominations and from the certificate to him by the Secretary of State of all nominations for offices to be voted for by the electors of the whole State, or of any district of the State larger than a county. *Id.* (See §§ 58, 60, ante.) This section also requires the county clerk to have sample ballots open to inspection and objection five days, and fac similes of the official ballots four days before election. *Id.*

§ 87. **Distribution of ballots and stationery.**—The county clerk of each county except New York and Kings shall deliver at his office to each town or city clerk in such county on the Saturday before the election at which they may be voted, the official and sample ballots, cards of instructions and other stationery required to be provided for each polling place in such town or city for such election. It is hereby made the duty of each such town or city clerk to call at the office of such county clerk at such time and receive such ballots and stationery. In the cities of New York and Brooklyn, the boards required to provide such ballots and stationery shall cause them to be delivered to the board of inspectors of each election district at least one-half hour before the opening of the polls on each day of election. Each kind of official ballots shall be arranged in a package in the consecutive order of the numbers printed on the stubs thereof, beginning with number one. All official and sample ballots provided for such election shall be in separate sealed packages, clearly marked on the outside thereof with the number and kind of ballots contained therein, and indorsed with the designation of the election district for which they were prepared. The instruction cards and other stationery provided for each election district shall also be enclosed in a sealed package or packages with a label on the outside thereof showing the contents of each such package. Each such town and city clerk,

receiving such packages shall cause all such packages so received and marked for any election district to be delivered unopened, and with the seals thereof unbroken to the inspectors of election of such election district one-half hour before the opening of the polls of such election therein. The inspectors of election receiving such packages shall give to such town or city clerk, or board, delivering such packages a receipt therefor specifying the number and kind of packages received by them, which receipt shall be filed in the office of such clerk or board. Town, city and village clerks required to provide the same for town meetings, city and village elections held at different times from a general election, and the boards of the cities of New York and Brooklyn required to provide the same for elections held therein, respectively, shall in like manner, deliver to the inspectors or presiding officers of the election at each polling place at which such meetings and elections are held, respectively, the official ballots, sample ballots, instruction cards and other stationery required for such election or town meeting, respectively, in like sealed packages marked on the outside in like manner, and shall take and file receipts therefor in like manner in their respective offices.

The legislature also authorized what are called in the statute the Independent Nominations, to be made by the certificate signed and sworn to by a specified number of voters, the number required varying according to the character and locality of the offices to be filled. *Matter of Madden*, 148 N. Y. 136. The contents of the official ballot, according to the scheme adopted, are determined by the certificates of nomination. *Id.*

§ 88. Errors and omissions in ballots.— Upon affidavit, presented by an elector, that an error or omission has occurred in the publication of the names or description of the candidates nominated for office, or in the printing of sample or official ballots, the supreme court, or a justice thereof, may make an order, requiring the county clerk or other officer or board charged with the duty in respect to which such error or omission occurs, to correct such error, or show cause why such error should not be corrected. The county clerk or such other officers or boards shall, upon their own motion, correct without delay any patent error in the ballots which they may discover, or which shall be brought to their attention, and which can be corrected without interfering with the timely distribution of the ballots to the inspectors for use at such election.

The Election Law provides for the settling of all questions before the court in respect of ballots in relation to the election, and thereby precludes the arising of such questions after election. *Matter of Hirsh* (Sup. Ct., Sp. T., 1895), 14 Misc. 377. Any voter may show by affidavit to the Supreme Court or a justice thereof that the error or omission has occurred in the printing of the sample or official ballots; whereupon such court or justice is required to hear the case and cause the same to be corrected. *Id.* The statute thus provides for the establishing of the legality of the ballot in this respect before election by thus giving due notice and opportunity to everyone to be heard concerning such errors or mistakes. *Id.*

§ 89. **Unofficial ballots.**—If the official ballots required to be furnished to any town or city clerk, or board, shall not be delivered at the time required, or if after delivery shall be lost, destroyed or stolen, the clerk of such town or city, or such board, shall cause other ballots to be prepared as nearly in the form of the official ballots as practicable, but without the indorsement, and upon the receipt of ballots so prepared from such clerk or board, accompanied by a statement under oath that the same have been so prepared and furnished by him or them, and that the official ballots have not been so delivered, or have been so lost, destroyed or stolen, the inspectors of election shall cause the ballots so substituted to be used at the election in the same manner, as near as may be, as the official ballots. Such ballots so substituted shall be known as unofficial ballots.

This section expressly makes it the duty of a town or city clerk to prepare substituted ballots where the regular ballots have been not delivered or have been lost or destroyed. *People ex rel. Hirsh v. Wood*, 148 N. Y. 142. It only applies where official ballots should have been furnished and have not been furnished. *Matter of Taylor* (Sup. Ct., 2 D., 1896), 3 App. Div. 244.

ARTICLE V.

Conduct of Elections and Canvass of Votes.

Section 100. Opening the polls.

101. Persons within the guard rail.
102. Watchers; challengers, electioneering.
103. General duties of election officers.
104. Delivery of ballots to electors.
105. Preparation of ballots by electors.
106. Manner of voting.

Section 107. When unofficial ballots may be voted.

- 108. Challenge and oaths.
- 109. Time allowed employes to vote.
- 110. Method of canvass.
- 111. Original statement of canvass and certified copies.
- 112. Proclamation of result.
- 113. Delivery and filing of papers relating to the election.
- 114. Judicial investigation of ballots.

§ 100. Opening the polls.—The inspectors of election, poll clerks and ballot clerks of each election district shall meet at the polling place therein at least one-half hour before the time set for opening the polls at each election for which official ballots are required to be provided, and shall proceed to arrange the space within the guard-rail and the furniture thereof, including the voting booths, for the orderly and legal conduct of the election. The inspectors of election shall then and there have the ballot boxes required by law for the reception of ballots to be voted thereat; the box for the reception of ballots found to be defective in printing or mutilated, before delivery to, and ballots spoiled and returned by electors; the box for the stubs of voted and spoiled ballots, the sealed packages of official ballots, sample ballots and instruction cards and distance markers, poll books, tally-sheets, return sheets and other stationery required to be delivered to them for such election; and if it be an election at which registered electors only can vote, the register of such electors required to be made and kept therefor. The inspectors shall thereupon open the sealed packages of instruction cards and cause them to be posted conspicuously, at least one, and if printed in different languages, at least one of each language, in each of the voting booths of such polling place, and at least three of each language in which they are printed in or about the polling place; shall open the sealed packages of official ballots and sample ballots, and place them in charge of the ballot clerks, and shall place the poll-books in charge of the poll clerks, and shall cause to be placed at a distance of one hundred feet from the polling place the visible markers designated herein as "distance markers," to prohibit "loitering or electioneering" within such distance. They shall also, before any ballots are cast, see that the voting booths are supplied with pencils having black lead only, unlock the ballot boxes, see that they are empty, allow the watchers present to examine

them, and shall look them up again while empty in such manner that the watchers present and persons just outside the guard-rail can see that such boxes are empty when they are relocked. After such boxes are so relocked they shall not be unlocked or opened until the closing of the polls of such election, and, except as authorized by law, no ballots or other matter shall be placed in them after they are so relocked and before the announcement of the result of such canvass and the signing of the original statement of canvass and the two certified copies thereof. The instruction cards and distance markers posted as provided by law shall not be taken down, torn nor defaced during such election. The ballot clerks, with the official and sample ballots; the inspectors, with such boxes and register of electors, and the poll clerks, with their poll-books, shall be stationed as near each other as practicable within such inclosed space. One of the inspectors shall then make proclamation that the polls of the election are open, and of the time o'clock in the afternoon when the polls will be closed.

§ 101. **Persons within the guard-rail.**— From the time of the opening of the polls until the announcement of the result of the canvass of the votes cast thereat, and the signing of the official returns or statement of such canvass and the copies thereof, the boxes and all official ballots shall be kept within the guard-rail. No person shall be admitted within the guard-rail during such period, except inspectors, poll clerks, ballot clerks, duly authorized watchers, persons admitted by the inspectors to preserve order or enforce the law, persons duly admitted for the purpose of voting; provided, however, that candidates for public office voted for at such polling place may be present at the canvass of the votes.

§ 102. **Watchers; challengers; electioneering.**— Each political party or independent body duly filing certificates of nomination of candidates for offices to be filled at any such election, may, by a writing signed by the duly authorized county, city, town or village committee of such political party or independent body, or by the chairman or secretary thereof charged with that duty and delivered to one of the inspectors of election, appoint not more than two watchers to attend each polling place thereof. Such committee, chairman or secretary thereof for a city, county town or village shall not appoint watchers for any polling place outside of such city, county, town or village, respectively. Such watchers may be present at such polling place, and within the

guard-rail, from at least fifteen minutes before the unlocking and examination of any ballot box at the opening of the polls of such election until after the announcement of the result of the canvass of the votes cast thereat, and the signing of the original statement of canvass and copies thereof by the inspectors. A reasonable number of challengers, at least one person of each such party or independent body, shall be permitted to remain just outside the guard rail of each such polling place, and where they can plainly see what is done within such rail outside the voting booths, from the opening to the close of the polls thereat. No person shall, while the polls are open at any polling place, do any electioneering within such polling place, or within one hundred feet therefrom, in any public street, or in any building or room or in a public manner, and no political banner, poster or placard shall be allowed in or upon such polling place during any day of registration or of the election.

§ 103. **General duties of election officers**.—Subdivision 1. One of the inspectors of election at each polling place shall be designated by the board of inspectors of election to receive the ballots from the electors voting; or if the majority of the inspectors shall not agree in such designation, they shall draw lots for such position. If it be an election for which electors are required to be registered, the other inspectors shall before any ballots are delivered by the ballot clerks to an elector, ascertain whether he is duly registered. The ballot clerks shall not deliver any ballot to such elector until the inspectors announce that he is so registered. As each elector votes, the inspectors shall check his name upon such register and shall enter therein in the column provided therefor opposite the name of such elector, the consecutive number upon the stub of the ballot or set of ballots voted by him. The inspector shall forthwith upon detaching the stub from any official ballot deposit the same in the box provided for detached stubs. In all proceedings of the inspectors acting as registrars, inspectors or canvassers, they shall act as a board, and, in case of a question arising, as to matters which may call for a determination by them, a majority of such board shall decide.

Inspectors of election are mere ministerial officers. *Matter of Sherwood v. State Board*, etc., 129 N. Y., 360; *People ex rel. Stapleton v. Bell*, 119 id., 175; *Same v. Same*, 27 N. Y. State Rep., 39; *People v. Pease*, 27 N. Y., 45.

When a proposed elector satisfies the statutory demands upon him for oaths and answers to certain questions, they are bound, under the statute, to receive and deposit his vote. *People ex rel. Stapleton v. Bell*, 119 N. Y., 175. The duty

of the inspectors is discharged when they have required the challenged voter to submit to the tests prescribed. *Id.* They are not authorized to refuse to sign the election returns, on the ground that votes were cast by persons who they knew or suspected were falsely personating registered voters, and that, upon challenge, their answers, though complying with the statute, were not satisfactory to the objecting inspectors. *Id.* In such case, they may be compelled to sign by a mandamus. *Id.* It is not essential to the reception of the ballot of a challenged voter that it should be agreed to by a majority of the board. *Id.* Such ballot is finally received when the elector has satisfied the statutory tests and delivered it to a single inspector, and any inspector may then deposit it in the box. *Id.*

All the inspectors of election have equal power. *People v. Van Slyck*, 4 Cow., 297. It is not necessary that one should be appointed to preside. *Id.*

Ballots containing only the christian name of the nominee are sufficiently definite to be accepted. *People v. Pease*, 27 N. Y., 45.

The decision of the inspectors is final only as to receiving or rejecting votes. *People v. Pease*, 27 N. Y., 45. The question whether a voter was or was not entitled to vote, is open to examination, on competent evidence. *Id.*

A failure to give the addition to a name, such as "Jun.," in a ballot, will not render it void. *People v. Cook*, 14 Barb., 259; 8 N. Y., 67.

The inspectors of an election are not liable to an action, for refusing the votes of a qualified elector, without proof of malice, express or implied. *Jenkins v. Waldron*, 11 Johns., 114; *Goetcheus v. Matthewson*, 5 Lans., 315; reversed, 61 N. Y., 420.

Election officers, who reject a vote in consequence of the refusal of an elector, when challenged, to answer questions not having reference to his place of residence and qualifications under the constitution, render themselves liable in damages. *Goetcheus v. Matthewson*, 61 N. Y., 420.

Subdivision 2. In addition to the duties hereinbefore enjoined upon them, the ballot clerks shall deliver official ballots to the electors in such order that the numerical order of the numbers printed on the stubs of the ballots so delivered, shall be the same as the order of the successive deliveries thereof, the ballot numbered one on the stubs being first delivered and so on. If, in addition to the general ballots there shall be a ballot containing a proposed constitutional amendment or other proposition or question, the ballots shall be delivered to the electors in such order that the numbers upon the stubs of both ballots so delivered shall be the same. If, in a case where more than one ballot is to be voted, the elector shall spoil one of a set of ballots, and shall be entitled to receive a new set under the provisions of this act, he shall return the spoiled set to the ballot clerks before new ballots are furnished to him. In case one of a set of ballots bearing the same number shall be found defective in printing or mutilated before the same is given to the elector, both ballots of that number shall have the stubs removed therefrom by the ballot clerks and such ballots shall be deposited in the box for spoiled and mutilated ballots, and the stubs in the box for detached stubs, and a memorandum shall be made by the ballot clerks of the number on such ballots and the fact that the set was not delivered to electors because defective in

printing or mutilated. The ballot clerks shall, upon the delivery of official ballots to each elector, announce the elector's name and the number printed on the stub of each ballot so delivered. Upon the return of a ballot or set of ballots to them unvoted by any elector, they shall announce the name of the elector returning them and the printed number on the stubs of the ballots so returned, and shall at once remove the stubs from such returned ballots and deposit such stubs in the box for detached stubs, and such ballots in the box for spoiled and mutilated ballots. A memorandum shall be made by them of the number on such ballots, and of the fact that they were returned spoiled by electors. They shall immediately upon the closing of the polls take from the box containing them the spoiled and mutilated ballots, and after comparing the number thereof with the record of the same, made during the day, shall destroy them; and shall thereupon prepare and sign a written statement or return of ballots in the form provided for in section eighty-four of the election law. The original statement so made by them shall be attached to the original statement of the canvass made by the board of inspectors and a copy thereof to each copy of such original statement of canvass. They shall inclose all unused ballots, and all detached stubs, in a sealed package, and deliver the same to the chairman of the board of inspectors.

Subdivision 3. Each poll clerk at each polling place for which official ballots are required to be provided, shall have a poll-book for keeping the list of electors voting or offering to vote thereat at the election. Such book shall have six columns headed respectively, "Number of elector," "Names of electors," "Residence of electors," "Number on ballots delivered to electors," "Number on ballots voted," and "Remarks." Upon each delivery of an official ballot or set of official ballots by the ballot clerks to an elector, each poll-clerk shall enter upon his poll-book in the appropriate column, the number of the elector, in the successive order of the delivery of ballots thereto, the name of the elector, in the alphabetical order of the first letter of his surname, his residence by street and number, or if it have no street number, a brief description of the locality thereof, the printed number upon the stub of the ballots delivered to such elector, and the number on the ballots voted by him. If the ballot or set of ballots delivered to any elector shall be returned by him to the ballot clerk, and he shall obtain a new ballot or set of ballots, the poll clerks shall write opposite his name on

the poll-books, in the proper column, the printed number on the stubs of such ballot or additional set of ballots. Each poll-clerk shall make a memorandum upon his poll-book opposite the name of each person who shall have been challenged and taken either of the oaths prescribed upon such challenge, or who shall have received assistance in preparing his ballot and shall also enter upon the poll-book opposite the name of such person the names of the election officers or persons who render such assistance, and the cause or reason assigned for such assistance by the elector assisted. As each elector offers his ballot or set of ballots which he intends to vote to the inspector, each poll-clerk shall report to the inspectors whether the number entered on the poll-book kept by him as the number on the ballot or set of ballots last delivered to such elector, is the same as the number on the stub of the ballot or set of ballots so offered. As each elector votes, each poll clerk shall enter in the proper column on his poll-book the number on the stub of the ballots voted. Upon the close of the polls of the election, the poll clerks and inspectors shall compare the poll-books with the registers and correct any mistakes found therein. The poll clerks shall also during the canvass of the votes, as prescribed by section one hundred and ten of the election law, make and complete the tally sheets of the votes in the form provided by section eighty-four of the election law.

The poll list should be kept by the town clerk at a town meeting, or, in his absence, by such person as shall be chosen by the inspectors present, and the duties of the poll clerk should be performed by the members of the town board. *People ex rel. Bradshaw v. Bidelman*, 69 Hun, 596.

While the poll list should have been kept by the town clerk, or, in his absence, by such person as should have been chosen by the inspectors present, and the duties of the poll clerk should have been performed by the members of the town board, and the tickets should have been returned to the inspectors, and should have been by them placed in the box kept for such ballots, still the acts above detailed were irregularities merely, not operating to destroy the secrecy of the ballot or affecting the election. *Id.*

In the case of *People ex rel. Nichols v. Board, etc.*, 129 N. Y. 395, the county clerk had sent the ballots containing the names of candidates nominated by one of the political parties to an election district other than that for which they were numbered, where they were given out by the inspectors of election and voted by the electors. They could be distinguished from the ballots cast by the electors of the other political party. It was held that such ballots should not, and that the ballots having on them the proper numbers and district should be counted.

Though the law requires ballots to be numbered consecutively, still where ballots, properly indorsed and otherwise regular in form, except that their stubs are not consecutively numbered, have been voted, and the stubs detached, and the ballots cast into the box and their identity lost, there is no provision which prevents their being counted. *People ex rel. Bradshaw v. Bidelman, ante.*

The number is required to be printed upon the back of the stub, and the inspectors, after a ballot is returned to them, are required to remove the stub before placing it in the box. *Id.*

After the ballot is placed in the box, there is no way to identify it or determine whether it did or did not have a stub with an improper number upon it. *Id.*

The indorsement is required to be printed upon the back of the ballot, and not upon the stub. *Id.* It remains after the stub is removed, and, if an improper one, it serves to identify the ballot when taken from the box; hence, the provision that no ballot that has not the printed official indorsement shall be counted, etc. But this provision has no application to the numbers upon the stub. *Id.*

Though the statute does not require the ballots to be numbered from one upwards, it does provide that they shall be consecutively numbered. *Id.* It is intended that the ballots shall be numbered from the unit upwards, and such is a fair and reasonable construction of the statute. *Id.* The fact that they are to be numbered consecutively, will not permit the commencement of the numbering at the unit and, after a few numbers, skip to some higher number. *Id.*

The case of *People ex rel. Bradshaw v. Bidelman*, 69 Hun, 596, arose and was decided under chap. 262 of 1890, as amended by chap. 296 of 1891.

§ 104. **Delivery of ballots to electors.**— Subdivision 1. While the polls of the election are open, the electors entitled to vote and who have not previously voted thereat, may enter within the guard-rail at the polling place of such election for the purpose of voting, in such order that there shall not at any time be within such guard-rail more than twice as many electors as there are voting booths thereat, in addition to the persons lawfully within such guard-rail for other purposes than voting. The elector shall enter within the guard-rail through the entrance provided, and shall forthwith proceed to the inspectors and give his name, and, if in a city or village of five thousand inhabitants or over, his residence by street and number, or if it have no street number, a brief description of the locality thereof, and if required by the inspectors shall state whether he is over or under twenty-one years of age. One of the inspectors shall thereupon announce the name and residence of the elector in a loud and distinct tone of voice. No person shall be allowed to vote in any election district at any election where electors are required to be registered unless his name shall be upon the registration books of such election district. The right of any person to vote, whose name is on such register, shall be subject to challenge. If such elector is entitled to vote thereat, and is not challenged, or if challenged and the challenge be decided in his favor, one of the ballot clerks shall then deliver to him one official ballot or a set of official ballots, folded by such ballot clerk in the proper manner for voting, which is: First, by bringing the bottom of the ballot up to the perforated line, and second by folding both sides to the center, or towards the center, in such manner that when folded the face of each ballot shall be concealed, and the printed number on the stub and the indorsement on the back of the ballot shall be visible, so the stub can be

removed without removing any other part of the ballot, and without exposing any part of the face of the ballot below the stub, and so that when folded the ballot shall not be more than four inches wide. No person other than an inspector or ballot clerk shall deliver to any elector within such guard-rail any ballot, and they shall deliver only such ballots as the voter is legally entitled to vote, and also the sample ballot when the same is asked for.

The provisions of the law, prohibiting the receiving of any votes, unless the name of the person offering it appears on the register made and completed, as provided by the act, preceding the election, and declaring that the section shall be considered as mandatory, and that every vote received in contravention thereof shall be void, etc., are to be construed, in view of the intent of the legislature as ascertained from a consideration of the whole act, as designed simply to prevent unregistered voters from taking part in the election; not to make the right to vote of persons, whose names are on the registers, depend upon the observance by the inspectors of all the minute directions of the act in preparing it, and thus render the constitutional right of suffrage liable to be defeated without fault of the elector, by the fraud, caprice or negligence of the inspectors. *People ex rel. Frost v. Wilson*, 62 N. Y., 186.

Subdivision 2. Any elector who shall, at the time of registration, have made oath of physical disability or illiteracy, as prescribed by the third subdivision of section thirty-four of the election law; or, who, being duly registered, in an election district where personal registration by all electors is required by law, shall state under oath, to the inspectors of election, on the day of election, that, by reason of some accident, the time and place of which he must specify, or of disease, the nature of which he must also specify, he has, since the day upon which he registered, lost the use of both hands, or become totally blind, or afflicted by such degree of blindness as will prevent him, with the aid of glasses, from seeing the names printed upon the official ballot, or so crippled that he can not enter the voting booth and prepare his ballot without assistance; or any elector in an election district who is not required by law to personally register, who is unable to write by reason of illiteracy, or is physically disabled in one or more ways described in the third subdivision of section thirty-four of the election law, and who shall make the statement under oath to the inspectors in the form required in said subdivision, may choose two of the election officers, both of whom shall not be of the same political faith, to enter the booth with him, to assist him in preparing his ballots. At any town meeting or village election, where the election officers are all of the same political faith, any elector entitled to assistance

as herein provided may select one of such election officers and one elector of such town or village of opposite political faith from such election officer so selected, to render such assistance. Such election officers or persons assisting an elector shall not in any manner request or seek to persuade or induce any such elector to vote any particular ticket, or for any particular candidate, and shall not keep or make any memoranda or entry of anything occurring within such booth, and shall not, directly or indirectly, reveal to any other person the name of any candidate voted for by such elector, or which ticket he has voted, except they be called upon to testify in a judicial proceeding for a violation of this act, and each election officer, before the opening of the polls for the election, shall make oath that he "will not in any manner request, or seek to persuade, or induce any elector to vote any particular ticket or for any particular candidate, and that he will not keep or make any memoranda or entry of anything occurring within the booth, and that he will not, directly or indirectly, reveal to any person the name of any candidate voted for by any elector or which ticket he has voted, or anything occurring within the voting booth, except he be called upon to testify in a judicial proceeding for a violation of the election law." The same oath shall be taken by any elector rendering such assistance, as provided for above, and any violation of this oath shall be a felony punishable upon conviction by imprisonment in a state prison for not less than two nor more than ten years. No elector shall otherwise ask or receive the assistance of any person within the polling place in the preparation of his ballot, or divulge to anyone within the polling place the name of any candidate for whom he intends to vote or has voted.

The right to vote, secured to the citizen by the constitution, must be exercised in the manner and subject to the regulations lawfully prescribed by the legislature in respect to the time when and the method by which his will is expressed; and, in order to render his will and intention effectual at the election, he must comply with at least all the substantial requirements of the law. *People ex rel. Sherman v. Person*, 45 N. Y. State Rep., 528; *People ex rel. Nichols v. Board of Canvassers*, etc., 129 N. Y. 395, 401.

§ 105. **Preparation of ballots by electors.**— On receiving his ballot the elector shall forthwith and without leaving the inclosed space, retire alone to one of the voting booths, and without undue delay, unfold and mark his ballot as hereafter described. No elector shall be allowed to occupy a booth already occupied by another, or to occupy a booth more than five min-

utes in case all the booths are in use and electors waiting to occupy the same. It shall not be lawful to make any mark upon the official ballot other than the cross X mark used for the purpose of voting, with a pencil having black lead, and that only in the circles or in the voting spaces to the left of the names of candidates, or to write anything thereon other than the name or names of persons not printed upon the ballot for whom the elector desires to vote in the blank column under the proper title of the office; nor shall it be lawful to deface or tear a ballot in any manner, nor to erase any printed device, figure, letter or word therefrom, nor to erase any name or mark written thereon by such elector. Any ballot upon which there shall be found any mark other than the cross X mark used for the purpose of voting, or a name or names written otherwise than as heretofore provided, and any ballot which shall be found to be defaced or torn, or from which there shall have been erased any device, figure, letter or word, or which shall have been marked or written upon other than by a pencil having black lead, shall be wholly void and no vote thereon shall be counted. If an elector deface or tear a ballot or one of a set of ballots, or wrongly marks the same, he may successively obtain others, one set at a time, not exceeding in all three sets, upon returning each set of ballots so defaced or wrongly marked to the ballot clerks. The elector shall observe the following rules in marking his ballots:

1. If the elector desires to vote a straight ticket, that is, for each and every candidate of one party for whatever office nominated, he shall make a cross X mark in the circle above the name of the party at the head of the ticket.

2. If the elector desires to vote a split ticket, that is, for candidates of different parties, he must not make a cross X mark in the circle above the name of any party, but shall make a cross X mark in the voting space before the name of each candidate for whom he desires to vote on whatever ticket he may be.

If the ticket marked in the circle for a straight ticket, does not contain the names of candidates for all offices for which the elector may vote, he may vote for candidates for such offices so omitted by making a cross X mark before the names of candidates for such offices on other tickets, or by writing the names, if they are not printed upon the ballot, in the blank column under the title of the office. If the elector desires to vote for any

person whose name does not appear upon the ballot, he can so vote by writing the name with a pencil having black lead in the proper place in the blank column. The elector can vote blank for any office by omitting to make a cross X mark in any circle, and by making a cross X mark in the voting space before the name of every candidate he desires to vote for, except for the office for which he desires to cast a blank vote. In the case of a question submitted, the elector shall make a cross X mark in the blank square space on the right of and after the answer "Yes" or "No," which he desires to give on each such question submitted. One straight line crossing another straight line at any angle within a circle, or within the voting spaces, shall be deemed a valid voting mark.

Inspectors of election and boards of canvassers have no business to decide whether a person voted for is, or is not, eligible. *People ex rel. Bradley v. Shaw*, 45 N. Y. St. Rep. 533. It is their duty to count the votes cast for any or every person whose name appears upon a ballot printed and indorsed as the law directs. *Id.* The law does not restrict the voter to the candidates placed in nomination by political parties or by petitions of citizens, and it is not necessary that a person's name should appear upon the official ballot to enable the voters to vote for him. *Id.* While the law provides for official ballots, it does not provide for official candidates. *Id.*

The voter is not limited to voting for candidates receiving a nomination by a political party, which at the last election polled one per cent. of the entire vote cast. *People ex rel. Bradley v. Shaw*, 45 N. Y. State Rep. 866. He may vote for any candidate whom he may choose. *Id.*

The provision of the law requiring a paster ballot to be pasted on the side opposite the official endorsement is directory merely. *People ex rel. Bradley v. Shaw*, 45 N. Y. State Rep. 533. But the requirement that it be so attached as not to be visible, is mandatory. *Id.* The placing of a paster ballot, therefore, upon the outside of the official ballot does not render it invalid, if such paster ballot is not visible when the ballot is folded. *Id.*

If the official, charged with the duty, neglects to print upon the official ballot the name of an office which, under the law, is to be filled at the election for which the official ballots were prepared, a qualified voter may write or paste on the proper official ballot such office and the name of any person to fill it whom such voter desires. *People ex rel. Goring v. Wappingers Falls*, 144 N. Y. 616. And where, under such circumstances, the relator received forty-four votes for police justice, which was the whole number of votes cast for such office, a writ of peremptory mandamus was properly granted, requiring the board of trustees to recognize him as a police justice, but not to fix the salary of the office. *Id.*

Innocent voters cannot be disfranchised because of a latent defect in the official ballot furnished by the State, not discernible on inspection,

which ballot they are compelled to use, especially where the defect consists in the unauthorized insertion therein by a public official, charged with the duty of making up and printing the ballots, of names of candidates in the party column not duly nominated by such party. *People ex rel. Hirsh v. Wood*, 148 N. Y. 142. No principle permits the disfranchisement of innocent voters for the mistake, or even the willful misconduct of election officers in performing the duty cast upon them. *Id.* The provision, found in this section of chapter 810 of 1895, which declares that "no ballot without the official indorsement shall be allowed to be deposited in the ballot box, except as provided by section 89 of the Election Law, and 109 of this act, and none but ballots provided in accordance with the provisions of this act shall be counted," was designed to enforce the new system of the official ballot. *Id.* It prohibits the deposit as well as the counting of any but official ballots, or the unofficial ballots authorized to be issued in the exigencies contemplated by section 89 of the Election Law, and section 109 of the act of 1895. *Id.* The words "none but ballots provided in accordance with the provisions of this act shall be counted," plainly mean the ballots provided for use by the public officials charged with that duty and substituted ballots authorized in certain contingencies to be provided and used in the cases specified in the above sections. *Id.* The court did not, in this case, determine the question whether, under the statute, the form of the official ballot or any mistake of the clerk in arranging or printing the names of candidates, or as to the contents of the party column, can be raised after the election has been held, or the further question whether a mandamus may be issued to compel the board of canvassers to reject the ballots regular on their face. *Id.*

After the ballots have been voted, the canvassers have no power to reject them as void (*Matter of Hirsh* (Sup. Ct., Sp. T., 1895), 14 Misc. 377), except in the sole instance where such power is given to them in the case of ballots "from which there shall have been erased any device, figure or word, or upon which there shall be written any word or words therein the name of the candidate," in the column provided for that purpose. *Id.* And where the canvassers have no power to reject the ballots, the court has no power to order them to do so. *Id.*

§ 106. **Manner of voting.**— When the ballot or ballots which an elector has received shall be prepared as provided in section one hundred and five of this act, he shall leave the voting booth with his ballot folded so as to conceal the face of the ballot, but show the indorsement and fac simile of the signature of the official on the back thereof, and, keeping the same so folded, shall proceed at once to the inspector in charge of the ballot box, and shall offer the same to such inspector. Such inspector shall announce the name of the elector and the printed number on the stub of the official ballot so delivered to him

in a loud and distinct tone of voice. If such elector be entitled then and there to vote, and be not challenged, or if challenged, and the challenge be decided in his favor, and if his ballot or ballots are properly folded, and have no mark or tear visible on the outside thereof, except the printed number on the stub and the printed indorsement on the back, and if such printed number is the same as that entered on the poll-books as the number on the stub or stubs of the official ballot or set of ballots last delivered to him by the ballot clerks, such inspector shall receive such ballot or ballots, and, after removing the stub or stubs therefrom, in plain view of the elector, and without removing any other part of the ballot, or in any way exposing any part of the face thereof below the stub, shall deposit each ballot in the proper ballot box for the reception of voted ballots; and the stubs in the box for detached ballot stubs. Upon voting, the elector shall forthwith pass outside the guard-rail unless he be one of the persons authorized to remain within the guard-rail for other purposes than voting. No ballot without the official indorsement shall be allowed to be deposited in the ballot box except as provided by sections eighty-nine and one hundred and seven of the election law, and none but ballots provided in accordance with the provisions of the election law shall be counted. No official ballot folded shall be unfolded outside the voting booth. No person to whom any official ballot shall be delivered shall leave the space within the guard-rail until after he shall have delivered back all such ballots received by him either to the inspectors or to the ballot clerks, and a violation of this provision is a misdemeanor. When a person shall have received an official ballot from the ballot clerks or inspectors, as hereinbefore provided, he shall be deemed to have commenced the act of voting, and if, after receiving such official ballot, he shall leave the space inclosed by the guard-rail before the deposit of his ballot in the ballot box, as hereinbefore provided, he shall not be entitled to pass again within the guard-rail for the purpose of voting, or to receive any further ballots.

Under the detailed provisions for recording votes in the city of New York a citizen cannot vote one or more ballots at one time and other ballots at other times. *Simpson v. Brown*, 18 N. Y. St. Rep. 781. He is not entitled to present himself more than once at the polls for the purpose of voting. *Id.* When he is reached in his turn, he must once for all exercise his right of suffrage at that election. *Id.*

Section 109 of 1895 permits unofficial ballots to be used when official ballots are not provided or shall be exhausted. *People ex rel. Hirsh v. Wood*, 148 N. Y. 142. It does not require that the ballots authorized thereby shall be provided by the official. *Id.* But the unofficial ballots authorized to be used under this section, are required to be, "as nearly as practicable in the form of the official ballot." *Id.* In the other case, some public official provides the ballot; under section 109, the voter may provide it. *Id.* The prohibition against counting, refers to ballots provided by the State having official sanction, and the unofficial ballots authorized by section 89 of the Election Law, and section 109 of 1895. *Id.*

§ 107. When unofficial ballots may be voted.—If, for any cause, the official ballots shall not be provided as required by law at any polling place, upon the opening of the polls of an election thereat, or if the supply of official ballots shall be exhausted before the polls are closed, unofficial ballots, printed or written, made as nearly as practicable in the form of the official ballot, may be used.

§ 108. Challenge.—Subdivision 1.—A person may be challenged either when he applies to the ballot clerk for official ballots, or when he offers to an inspector the ballot he intends to vote, or previously by notice to that effect to an inspector by any elector. The name of the person challenging shall not be disclosed by an election officer unless required by a court or a judicial officer. It shall be the duty of each inspector to challenge every person offering to vote, whom he shall know or suspect not to be duly qualified as an elector. If any person offering to vote at any election shall be challenged in relation to his right to vote thereat, one of the inspectors shall tender to him the following preliminary oath: "You do swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your place of residence and qualification as an elector." The inspectors or one of them shall then question the person challenged in relation to his name; his place of residence before he came into that election district; his then place of residence, his citizenship; whether he be a native or naturalized citizen, and if the latter, when, where, and in what court, or before what officer he was naturalized; whether he came into the election district for the purpose of voting at that election; how long he contemplates residing in the election district, and all other matters which may tend to test his qualifications as a resident of the election district, citizenship and right to vote

at such election at such polling place. If any person shall refuse to take such preliminary oath when so tendered, or to answer fully any such question which may be put to him, his vote shall be rejected. After receiving the answers of the person so challenged, the board of inspectors shall point out to him the qualifications, if any, in respect to which he shall appear to them to be deficient.

When a voter at an election offers his vote to the inspectors, and, if challenged, takes the preliminary oath, and after answering fully the questions touching his right to vote offers to take the general oath, it is the absolute duty of the inspectors to receive his vote. *Matter of Sherwood v. State Board, etc.*, 129 N. Y., 360; *People v. Pease*, 27 id., 45; *Goetcheus v. Matthewson*, 61 id., 420; *People ex rel. Stapleton v. Bell*, 119 id., 175.

If, in such a case, the inspectors refuse to take his vote, and he is a legal voter, he can compel them to take it by mandamus. *Id.* But if, upon his application for a mandamus, it should appear upon facts not disputed that he was not a qualified voter, the court will not compel the inspectors to take his vote, and thus permit the voter to commit a crime for the sole reason that the law made it their duty to take the vote. *Id.*

See note under section 108.

Subdivision 2. General oath.—If the person so offering to vote, shall persist in his claim to vote, and the challenge be not withdrawn, one of the inspectors shall then administer to him the following general oath: “You do swear (or affirm) that you are twenty-one years of age, that you have been a citizen of the United States for ninety days, and an inhabitant of this state for one year next preceding this election, and for the last four months a resident of this county, and for the last thirty days a resident of this election district, and that you have not voted at this election.” If the person so offering to vote shall be challenged for causes stated in section two of article two of the constitution of this state, the following additional oath shall be administered by one of the inspectors: “You do swear (or affirm) that you have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid, or used, any money, or other valuable thing, as a compensation or reward for the giving, or withholding, of a vote at this election, and have not made any promise to influence the giving or withholding of any such vote, and that you have not made, or become directly or indirectly, interested in any bet or wager depending upon the result of this election.” If the person so offering to vote shall be challenged on the ground of having been convicted of bribery or any infamous crime, the following additional oath shall be administered to him by one of the inspectors:

"You do swear (or affirm) that you have not been convicted of bribery or any infamous crime, or if so convicted, that you have been pardoned and restored to all the rights of a citizen." If any person shall refuse to take either oath so tendered his vote shall be rejected, but if he shall take the oath or oaths tendered him, his vote shall be accepted.

Subdivision 3. Record of persons challenged.—The inspectors of election shall keep a minute of their proceedings in respect to the challenging and administering oaths to persons offering to vote, in which shall be entered, by one of them, the name of every person who shall be challenged or take either of such oaths, specifying in each case whether the preliminary oath or the general oath, or both were taken. At the close of the election, the inspectors shall add to such minutes a certificate to the effect that the same are all such minutes as to all persons challenged at such election in such district.

§ 109. Time allowed employes to vote.—Any person entitled to vote at a general election held within this state, shall on the day of such election, be entitled to absent himself from any service or employment in which he is then engaged or employed, for a period of two hours, while the polls of such election are open. If such elector shall notify his employer before the day of such election of such intended absence, and if thereupon two successive hours for such absence shall be designated by the employer, and such absence shall be during such designated hours, or if the employer upon the day of such notice, makes no designation, and such absence shall be during any two consecutive hours while such polls are open, no deduction shall be made from the usual salary or wages of such elector, and no other penalty shall be imposed upon him by his employer by reason of such absence. This section shall be deemed to include all employes of municipalities.

§ 110. Canvass of votes.—Subdivision 1. **Preparation for canvass.**—As soon as the polls of an election are closed, the inspectors of election thereat shall publicly canvass and ascertain the votes, and not adjourn or postpone the canvass until it shall be fully completed. Any election officer who shall sign any original statement of canvass, or certified copies thereof, at any place other than the polling place, or at any time other than immediately after the canvass is completed, and any election officer or person who shall take from the polling place any such statement before it shall have been signed as herein provided,

is guilty of a felony, and shall be punished, upon conviction thereof, by imprisonment in a state prison for not less than two nor more than five years. The room in which such canvass is made shall be clearly lighted, and such canvass shall be made in plain view of the public. It shall not be lawful for any person or persons, during the canvass, to close or cause to be closed, the main entrance to the room in which such canvass is conducted in such manner as to prevent ingress or egress thereby. When two ballot boxes are provided for the reception of two different kind of ballots voted, the said ballot boxes shall be opened and the ballots therein canvassed in the following order, namely: First, the box containing the general ballots; secondly, the box containing the ballots cast upon any constitutional amendment or other proposition or question. The board of inspectors shall commence the canvass by comparing the two poll books with the registers used on election day, correcting any mistakes therein, and by counting the ballots found in the ballot boxes without unfolding them, except so far as to ascertain that each ballot is single, and by comparing the ballots found in each box with the number shown by the poll books to have been deposited therein. If the ballots found in any box shall be more than the number of ballots so shown to have been deposited therein, such ballots shall all be replaced without being unfolded in the box from which they were taken, and shall be thoroughly mingled therein, and one of the inspectors designated by the board shall, without seeing the same and with his back to the box, publicly draw out as many ballots as shall be equal to such excess and without unfolding them, forthwith destroy them. If two or more ballots shall be found in the ballot box so folded together as to present the appearance of a single ballot, they shall be destroyed if the whole number of ballots in such ballot box exceeds the whole number of ballots shown by the poll books to have been deposited therein, and not otherwise. If there lawfully be more than one ballot box for the reception of ballots voted at any one polling place, no ballot properly indorsed, found in the wrong ballot box, shall be rejected, but shall be counted in the same manner as if found in the proper ballot box, if such ballot shall not, together with the ballots found in the proper ballot box, make a total of more ballots than are shown by the poll books to have been deposited in the proper box. No ballot that has not the official indorsement shall be counted, except such as are voted in accordance

with the provisions of the election law relating to unofficial ballots. The chairman only of the board of inspectors shall unfold the ballots taken from the ballot box.

Inspectors of election have no power to decide as to the right of a person to vote in conformity to their own knowledge and belief, in disregard of the sworn statement of the person offering to vote. *People ex rel. Stapleton v. Bell*, 54 Hun. 567. Their knowledge or belief that illegal votes have been received is no justification for a refusal to sign the returns. *Id.* If they refuse to sign, they may be compelled by mandamus to do so. *Id.* Ballots accepted and deposited by some of the inspectors against the protests of others are received and must be returned. *Id.*

Inspectors of election, who have made and signed a statement of the result of election and filed it in the county clerk's office, have not the authority to subsequently change such determination and statement by delivering a different one to the supervisor for presentation to the board of county canvassers. *People ex rel. Russell v. Board, etc.*, 46 Hun. 390.

The returns will not be sent back to the inspectors for the correction of an irregularity which is not shown to have been prejudicial to the candidate. *People v. Board, etc.*, 58 How. 141. Nor, where it is alleged, that there has been a false and fraudulent alteration of the returns. *Id.* This question can only be tried in a court before the proper tribunal. *Id.*

Where it is apparent that a mistake has, in fact, been made in the returns, they may be sent back to the inspectors for correction. *People v. Canvassers*, 64 How. 201; 12 Abb. N. C. 95; *People v. Payne*, 64 How. 357; 12 Abb. N. C. 103. These officers are not *functus officio*, until a proper return has been made. *Id.*

The inspectors' return is *prima facie* evidence of the number of votes cast for a candidate. *People v. Minck*, 21 N. Y. 539.

See note under sections 131, 132.

Subdivision 2. Intent of electors.—No. 1. If the elector marks more names than there are persons to be elected to an office, or if for any reason it is impossible to determine the elector's choice for an office to be filled, his vote shall not be counted for such office, but shall be returned as a blank vote for such office.

No. 2. If the elector shall have made a cross X mark in the circle at the head of a party ticket and before the names of individual candidates on the same ticket *only*, the voting marks in the voting spaces before the names of such candidates on such ticket shall be treated as surplusage, and his vote shall be counted for all the candidates on such ticket so marked in the circle.

No. 3. If the elector shall have made a cross X mark in the circle above the name of the party, some of whose candidates he desired to vote for, and he shall also have placed a cross X mark before the name of any candidate of any other party for any office, the cross X mark in the circle above the name of the party ticket must be deemed to have cast the elector's vote for every candidate on the ticket of such party so marked except for the candidate or candidates for the offices which are individually marked on other tickets, and the candidate or candi-

dates so individually marked on such other ticket or tickets shall be deemed the choice of the voter for such office or offices; provided, however, that,

No. 4. Where two or more persons are to be voted for in any election district for the same office, as two or more justices of the supreme court, or presidential electors, and the names of the several candidates therefor are printed on any party ticket under the title of the office for which all are running, and the elector shall have made a voting mark in the circle at the head of the party ticket, and shall also have made a voting mark before one or more of the group of candidates for such office *on one other ticket only*, he shall be deemed to have cast his vote for all the candidates for such office on the party ticket so marked in the circle, except for such candidates of such party whose names are upon the same lines as the names of the candidates upon the other ticket so individually marked, and his vote shall be counted for the candidates of such party which he has so individually marked, unless in addition to marking the ticket in the circle at its head, he shall also have made a cross X mark before each one of the group of candidates for such office for whom he desires to vote on the ticket thus marked in the circle; and provided, further,

No. 5. That where two or more persons are to be voted for in any election district for the same office, as presidential electors or justices of the supreme court, and the names of the several candidates therefor are printed on any party ticket under the title of the office for which all are running and the elector shall have made a voting mark in the circle at the head of the party ticket, and shall also have made a voting mark before the names of candidates for such office for which all are running, *upon more than one* other party ticket, he must also indicate by voting marks on the ticket so marked in the circle the individual candidates of the group of candidates so running upon such ticket for such office for whom he desires to vote, but if he has not, his vote shall only be counted for the candidates for such office which are individually marked.

No. 6. If the elector shall have marked a cross X mark in more than one circle at the head of the party tickets and if on either of such tickets there shall be one or more candidates for office for which no other candidate or candidates is or are named on such other ticket or tickets so marked in the circle his vote shall be counted for such candidate or candidates.

Subdivision 3. Method of counting.— The method of counting shall be as follows: The straight ballots, that is, the ballots on which all the candidates on one party ticket and no others are voted for shall be separated from the split ballots and counted, and the number of straight party votes for each candidate shall be entered in gross opposite his name on each tally sheet by each poll clerk. The chairman of the board shall then take the split ballots separately, and announce the vote for each candidate on each such ballot, in the order of the offices printed thereon, and each poll clerk shall make an accurate tally of the same. As the votes on each split ballot are counted, such ballot shall be passed to the other inspectors for verification. The poll clerks shall then add together all the votes for each candidate and the ballots wholly blank and void, together with the ballots on which no votes were counted for any candidate for such office, and shall enter the sum thereof in the proper column on the tally sheet. As soon as the count is completed for each office, the poll clerks shall submit the result to the inspectors for examination, and if found to be correct, the chairman shall at once announce the result. When a ballot is not void and an inspector of election or other election officer or duly authorized watcher shall, during the canvass of the vote, declare his belief that any particular ballot has been written upon or marked in any way for the purpose of identification, the inspectors shall write on the back of such ballot the words "objected to because marked for identification," and shall specify over their signatures upon the back thereof the mark or marking upon such ballot to which objection is made. The votes upon each such ballot shall be counted by them, as if not so objected to. If requested by any watcher the inspectors shall, during the canvass, exhibit any and all ballots cast at such election or town meeting to such watcher, fully opened, and in such a condition that he may fully and carefully read and examine the same, but such inspector shall not allow any such ballot to be taken from his hand. Any person who shall place upon any ballot taken from the ballot box any mark or marking, or who shall tear or deface any such ballot with the intent of causing such ballot to be rejected as void, shall be guilty of a felony, and shall be punished upon conviction therefor by imprisonment in a state prison for a period not less than five nor more than ten years. In cities of the first class the chairman of the board of inspectors shall, forthwith upon the completion of the count of votes for each

office, respectively, and the announcement thereof, deliver to the police officer on duty at such place of canvass a statement subscribed by the board of inspectors, stating the number of votes received by each candidate for such office. Such statement shall forthwith be conveyed by the said officer to the station-house of the police precinct in which such place of canvass is located, and he shall deliver the same inviolate to the officer in command thereof, who shall immediately transmit by telegraph, telephone or messenger, the contents of such statement to the officer commanding the police department of such city. Such statement shall be preserved for six months by the police, and shall be presumptive evidence of the result of such canvass for each such office.

Where no objection has been made to the ballots as marked for identification, they should be destroyed. *People ex rel. Bush v. Board, etc.*, 48 State Rep. 791; 66 Hun, 265. In providing for the preservation of ballots, challenged as marked for identification, the law has provided certain safeguards to identify the ballots and prevent imposition and fraud. In addition to having written upon them the words "objected to because marked for identification," or words in substance to that effect, it also requires that each inspector shall sign his name thereto. *Id.* The purpose of this is obvious. *Id.* And where ballots not objected to at the time of being canvassed, are preserved in violation of law, out of the possession of the officers, the court will not direct them to be attached to the statement of canvass. *Id.*

§ 111. Original statement of canvass and certified copies.—

Upon the completion of the canvass, the board of inspectors of election shall make and sign an original statement thereof showing the kind of election, the date when held; the number of the election district; the town or ward, and the city and county in which it was held, on the first page or pages of which there shall be return of the ballots voted, following which there shall be a separate return for each office of the votes cast for each candidate therefor in the form prescribed for such returns and statement in section eighty-four of the election law. At the end of the last detailed statement of votes cast for candidates, they shall add a statement of the number of general ballots protested as "marked for identification," which ballots shall be endorsed by the inspectors "protested as marked for identification," specifying the mark or marking to which objection is made over their signatures, and all of which shall be counted for the several candidates voted for thereon. The inspectors shall also make as a part of their original statement a return of the number of void ballots rejected by them, and on such ballots no vote can be counted for any candidate. Each such ballot so declared void by the

inspectors shall be endorsed upon the back thereof with the specific reason for such rejection. Such void ballots shall, together with the ballots which were protested as being marked for identification be secured in a separate sealed package, which shall be indorsed on the outside thereof with the names of the inspectors, the designation of the election district, and the number and kind of ballots contained therein. Such package shall be filed by the chairman of the board of inspectors with the original statement of the canvass. If ballots are voted on any constitutional amendment, proposition or question, a similar return of the ballots and votes cast thereon shall be made and included as a part of such original statement. Such inspectors shall, whenever unofficial ballots are voted, return all of such ballots in the package with the void and protested ballots. At the end of each return contained in such original statement of the canvass, and also at the bottom of each sheet, or half sheet thereof, the inspectors shall make and sign a certificate that the foregoing statement is correct. If any inspector, poll clerk or ballot clerk shall refuse to sign any return required of him by the election law he must state the grounds upon which such refusal is based upon such return over his signature. Unless such an election be an election of town, village or school officers, held at a different time from a general election, such inspectors shall forthwith and before adjourning and taking any recess make two certified copies of such original certified statement of the result of the canvass. Forthwith upon the completion of such original statement and of such certified copies thereof, and the proclamation of the result of the election as to each candidate, the ballots voted, except the void and protested ballots, shall be replaced in the box from which they were taken, together with a statement as to the number of such ballots so replaced. Each such box shall be securely locked and sealed, and shall be deposited with the officer or board furnishing such boxes. They shall be preserved inviolate for six months after such election and may be opened and their contents examined upon the order of the supreme court or a justice thereof, or a county judge of such county, and at the expiration of such time the ballots may be disposed of in the discretion of the officer or board having charge of them.

§ 112. **Proclamation of result.**— Upon the completion of such canvass and of the original statement and certified copies of the

result thereof, the chairman of the board of inspectors shall make public oral proclamation of the whole number of votes cast at such election at such polling place for all candidates for each office; upon each proposed constitutional amendment or other question or proposition, if any, voted upon at such election; the whole number of votes given for each person, with the title of the office for which he was named on the ballot; and the whole number of votes given respectively for and against each proposed constitutional amendment or other question or proposition, if any, so submitted. The original statement of canvass and the certified copies thereof shall be securely and separately sealed with sealing wax in an envelope properly indorsed on the outside thereof by the inspectors, and shall be kept inviolate by the officers or board with whom they are filed until delivered, together with the sealed packages of void and protested ballots, to the county or city board of canvassers.

Where the legislature has prescribed a mode in which the result of an election shall be determined and declared, the election is not complete until the provisions of the statute have been complied with. *People v. Crissey*, 91 N. Y. 616.

§ 113. **Delivery and filing of papers relating to the election.**— If the election be other than an election of town, city, village or school officers, held at a different time from a general election, the chairman of the board of inspectors of each election district, except in the cities of New York and Brooklyn, shall forthwith, upon the completion of such certified original statement of the result, deliver one certified copy thereof to the supervisor of the town in which the election, if outside of a city, is situated, and if in a city, to one of the supervisors of such city. If there be no supervisor, or he be absent or unable to attend the meeting of the county board of canvassers, such certified copy shall be forthwith delivered to an assessor of such town or city. One certified copy of such original statement of the result of the canvass, the poll-books of such election, and one of the tally sheets, shall be forthwith filed by such inspectors, or by one of them deputed for that purpose, with the town clerk of such town, or the city clerk of such city, as the case may be. The original certified statement of the result of the canvass, with the original ballot return prepared by the ballot clerk attached, the sealed package of void and protested ballots, the record as to challenged and assisted voters, and the sealed packages of detached stubs and unvoted ballots, and one of the tally sheets shall, within twenty-four

hours after the completion of such canvass, be filed by the chairman of the board of inspectors, with the county clerk of the county in which the election district is situated. The register of electors and public copy thereof shall be filed as prescribed in section thirty-five of the election law. In the city of New York, the original statement of canvass and the sealed package of void, and protested ballots, shall be filed within twelve hours after the completion of the canvass, with the board of police commissioners, together with one of the poll-books, and one of the tally sheets, properly certified by the poll clerks. One certified copy of such original statement, one poll-book and one tally sheet shall be filed within such time with the county clerk of New York county, and the other certified copy of such original statement with the clerk of the board of aldermen. In the city of Brooklyn, the original statement of canvass, the sealed package of void and protested ballots, one of the poll-books and one of the tally sheets, properly certified by the poll clerks, shall be filed within twelve hours after the completion of the canvass with the board of elections, one of the certified copies of the original statement of the canvass, one poll-book and one tally sheet shall be filed within such time in the office of the county clerk of Kings county, and the other certified copy of such original statement with the commissioner of police of the city of Brooklyn. The sealed packages of detached stubs, and ballots not used at the election, shall, in the cities of New York and Brooklyn, be given by the inspectors to the police, who shall return them to the board of police in the city of New York, and to the board of elections in the city of Brooklyn. All such packages of detached stubs and unused ballots shall be preserved inviolate in the office in which they are filed, for a period of six months from the time of filing thereof, and may be opened and examined upon the order of the supreme court or a justice thereof, or a county judge within such county, and at the expiration of such time may be disposed of in the discretion of the officer or board having custody of the same.

§ 114. **Judicial investigation of ballots.**— If any certified original statement of the result of the canvass in an election district shall show that any of the ballots counted at an election therein were objected to as marked for identification, a writ of mandamus may, upon the application of any candidate voted for at such election in such district, within twenty days thereafter, issue out of the supreme court to the board or body of canvassers, if any, of the return of the inspectors of such election

district, and otherwise to the inspectors of election making such statement requiring a recount of the votes on such ballots. If the court shall, in the proceedings upon such writ, determine that any such ballot was marked for the purpose of identification, the court shall order such ballot and the votes thereon to be excluded upon a recount of such votes. A like writ may in the same manner be issued to determine whether any ballot and the votes thereon which has been rejected by the inspectors as void, shall be counted. If in the proceedings upon such writ the court shall determine that the votes upon any such ballot rejected as void shall be counted, the court shall order such ballot and the votes thereon to be counted upon a recount of such votes. Boards of inspectors of election districts, and boards of canvassers, shall continue in office for the purpose of such proceedings.

The court ought not to grant a mandamus to compel the issuing of a certificate of election to one who has no right under the constitution to the office. *Matter of Sherwood v. State Board, etc.*, 129 N. Y., 360.

To authorize the inspectors to attach the ballots to the statement of result, the first thing to be done is that some election officer or watcher should declare his belief that the ballot has been marked for identification. *People, ex rel. Bush, v. Board, etc.*, 48 State Rep'r, 791; 66 Hun, 265. Unless this is done, they are neither authorized nor required to attach such ballots to the statement. *Id.*

It was held in *People, ex rel. Bradley, v. Shaw*, 133 N. Y. 493; 45 State Rep'r, 866, that where the objection was not taken before the board of town canvassers that the ballots were marked for identification, the court could not consider that objection afterwards. This was a case where, upon a paster ballot for town officers, there was also printed the name of the office of excise commissioner and of the candidates therefor. The objection was made that they were defective "in that they contained the name of an office and a candidate therefor that was not upon the official ballots, and could not be properly on the same ticket with the other town officers." Subsequently, it was claimed that they were marked ballots, but the court held that that question was not before it.

Ballots, alleged to have been marked for identification, can only be marked by the inspectors during the canvass, and it is improper for them, or a single one of them, afterwards to so mark and attach such ballots to the statement of canvass. *People, ex rel. Bush, v. Board, etc.*, ante.

This section provides for the performance of several acts preliminary to the proceeding by mandamus: (1) An inspector or other election officer or duly authorized watcher must, during a canvass, or immediately after its completion, in substance, declare to the inspectors his belief that the ballot or paster was written upon, or marked for identification. (2) The inspectors must write their names on the back of such ballot and attach it to the original certificate of canvass. (3) They must include in such certificate a statement of the specific grounds upon which the validity of such ballot was questioned. (4) The board of county canvassers, or other officers performing similar duties, must mention separately, in the statement or certificate of canvass made by them, the number of votes thus questioned which were cast for each candidate and the specific ground upon which the same were claimed to be invalid as set forth in the original certificate of canvass. *People, ex rel. Hasbrouck, v. Board, etc.*, 48 State Rep'r, 533. The questions arise: Are all these preliminary acts matters of substance which are required absolutely to be performed before a candidate can proceed by writ of mandamus? And can the inspectors of election, or the board of county canvassers, prevent or defeat the proceedings by mandamus by neglecting or purposely omitting to write their names upon the ballots or to make the required statements? *Id.* The proper

officers are under a duty to perform the preliminary acts, and if they do not perform them, they may be criminally prosecuted for their neglect or willful disregard of the requirements of the law. *Id.*

The duties of inspectors are restricted to counting the votes contained in each box at the close of the polls, and the number of votes cast for the respective candidates, and they have no power to pass judicially upon the validity or invalidity of any such votes. *People ex rel. Stapleton v. Bell*, 27 N. Y. St. Rep., 39. They can not reject the vote of persons challenged because their answers were not satisfactory. No discretion is left to them, as to receiving or rejecting the vote of one who has taken the general oath of qualification, when he is not shown by a record to have been convicted of crime or by his own oath to be interested in a bet upon the election. They must deposit the ballot in the box, whatever they may believe or know of the want of qualification of the voter. *Id.* They are required to act upon the evidence which the statute prescribes and have no judicial power to pass upon the question of its truth or falsehood, nor can they act upon their own opinions or knowledge. *Id.*

While there are cases in which the court has the power to direct a board of inspectors to reconvene and correct a canvass, to canvass votes which they have refused to canvass, or to refrain from canvassing votes that they have already erroneously canvassed and counted, the court can not direct the return of the ballots to the inspectors in order that they may make a recount, or direct the ballots to be brought into court, in order that they may be recounted and a correct determination of the result reached. *People ex rel. Blodgett v. Board, etc.*; *People ex rel. Van Derzee v. Sickler*, 41 N. Y. St. Rep., 738.

Boards of inspectors of election and canvassers have no power conferred upon them to correct frauds or rectify mistakes, except clerical ones. *Id.* Their duty is simply to count, in one case, the ballots actually found in the ballot box at the close of the polls, and, in the case of canvassers, to add together the statements of results filed with them by the inspectors. *Id.*

The remedy for frauds and mistakes, other than clerical, is by proper proceedings in court or before the board or body, to membership in which the person aggrieved is a candidate, where that board or body has the power conferred upon it to determine the qualification and election of its own members. *Id.*

The election officers, from inspectors up to the board of state canvassers, are not vested with power to decide anything. *Id.* They are simply to receive and afterward count what they have received; the inspectors, the ballots; the board of canvassers, the returns made by the inspectors. *Id.*

If the ballots in form and character comply with the law, and the voter's name appears on the registry and he takes the prescribed oath, the inspector is bound to take the ballot and count it. *Id.* If the statement comes from the inspectors of election and is correct in form, the board of canvassers is bound to receive and canvass it. *Id.* All questions of fraud or mistake, except clerical ones in the statement, are to be passed upon by the courts or such other tribunals as are designated by statute. *Id.* The law is careful to impose upon inspectors and canvassers no duty except to receive and count. *Id.*

A writ of mandamus does not lie to compel an officer, exercising judicial functions, to make any particular decision, or to set aside a decision already made. *People ex rel. Gaige v. Reardon*, 49 Hun, 425; *People ex rel. Millard v. Chapin*, 104 N. Y., 96. Where inspectors of election have proceeded illegally in counting the ballots and have made and filed their report with the proper officer, a mandamus will not issue to compel them to reconsider their action, or to act in a certain manner. *People ex rel. Gaige v. Reardon, ante.* Upon making and filing its certificate, the board has fully discharged its official duty, and, therefore, become *functus officio* as a board. *Id.* A writ directed to it would be of no effect, since it can not legally again convene as a body and undo the acts done at a prior time when in the proper discharge of official duty. *Id.* An inferior tribunal, when it has assumed to act and by mistake or otherwise has acted irregularly, can not be treated as not having acted at all. *Id.* In such case the error committed can not be remedied through the instrumentality of a writ of mandamus. *Id.*

A judge at chambers in the city of New York, or elsewhere within the State, has no jurisdiction to issue a writ of mandamus. *People ex rel. Lower v. Donovan*, 47 State Rep'r, 831; 63 Hun, 512; rev'g 45 State Rep'r, 141. As no court can be opened on the day of general election, no such writ can be issued on that day to compel an inspector of election to accept a vote. *Id.*

An official ballot, upon which is the mark of a printer's quad, in the absence of proof that it was so marked for an illegal purpose, is not a marked ballot, and a mandamus cannot issue to compel a board of canvassers to reject it. *People ex rel. Hasbrouck v. Board, etc.*, 48 State Rep'r, 533.

The laws condemn ballots marked for identification, and such marking strikes at the very root of the reform ballot system. *Id.* If during the canvass some election officer, or some authorized watcher, who in a sense represents the constituents of his party, questions the marked ballot on the ground of the marks, the first important step has been taken. *Id.* The other preliminary acts are devolved upon the election officers not representing, or under the control of, any candidate. The courts, in the mandamus proceeding, must determine whether, under the circumstances of the particular case, there has been such a substantial compliance with the statute as will enable the candidate complaining of marked ballots to maintain the proceeding. *Id.*

A candidate, intending to proceed by mandamus under section 114, ante, should procure an alternative writ. *Id.* In such case, if there should be any dispute about facts, it can be settled before the peremptory writ issues. The opposing candidate should be permitted to intervene so as to protect his rights. *Id.* If a peremptory mandamus is applied for it must be upon notice (see § 2070 of Civil Code), and then, if the facts upon which the application is based are undisputed or admitted, and are sufficient to authorize the writ, questions of law only are involved, and the writ may issue in the first instance. *Id.*

It is only when an inspector of election, or other election officer or duly authorized watcher, has during or immediately after the completion of the canvass, declared his belief that certain ballots were marked for identification, that a peremptory mandamus can be granted to compel the attaching of such ballots to the certificate or statement of the canvass. *People ex rel. Bush v. Board, etc.*, 49 State Rep'r, 527; 66 Hun, 265; aff'g 48 State Rep'r, 791.

The unauthorized printing of the name of the office of excise commissioner and the candidate therefor upon the town ballot makes it a marked or a defective ballot. *People ex rel. Bradley v. Shaw*, 45 N. Y. State Rep., 533. But this does not of itself vitiate the ballot, or justify the inspectors of election or board of canvassers in rejecting it. *Id.* It is only when it is marked with the intent that it may be identified that it is to be rejected, and that rejection is not to be made by the inspectors. *Id.* The ballot is not to be excluded until the intent is ascertained and determined by the court. *Id.*; *People ex rel. Nichols v. Board of Canvassers, etc.*, 129 N. Y., 395, 407. The court shall determine whether the mark on the ballot is placed there with the intent of subsequently identifying the ballot and tracing it to the voter. *Id.* If it can find no such intent, the ballot is to remain as counted.

A ballot endorsed "Excise" is an official ballot for the purpose of voting for excise commissioners, but is not an official ballot for the purpose of voting for other town officers. *People ex rel. Sherman v. Person*, 45 N. Y. State Rep., 538. A ballot with the names of candidates for town offices printed upon it and endorsed "Excise" is not legally endorsed under the law, and is not an official town ballot within the meaning of the statute, and cannot be legally received or counted by the inspectors. *Id.* The legal effect is not changed if the names of the candidates for town officers are printed on another piece of paper, and that paper pasted on the ballot endorsed "Excise." *Id.*

The inspectors are prohibited from receiving any ballot having any mark on the outside or not properly endorsed. *People ex rel. Bradley v. Shaw*, 45 N. Y. State Rep., 533. But if anything appears on the inside of the ballot not authorized by law, they are required to preserve such ballot. *Id.* In such case, those interested may have ample opportunity to deliberately investigate the matter, and if, after such investigation, they think proper, to present it to the court for its determination. *Id.*

Votes cast for a candidate for excise commissioner can not be counted for him where the name is not upon a ticket legally endorsed as an excise ballot. *People ex rel. Bradley v. Shaw*, 45 N. Y. State Rep., 533, 866; *People ex rel. Sherman v. Person, id.*, 528.

Where the relators, who are nominated for the several town offices at an independent meeting or caucus, were obliged to have paster ballots printed at their own expense for use at the polls, and which they pasted upon the official ballots endorsed "Town," and where all of these paster ballots had printed upon them

the name of the candidate for the office of excise commissioner, it was held that this did not make them marked ballots, and that it was the duty of the inspectors to have counted the ballots for the other candidates named thereon, in declaring the result of the election, and that they could be compelled to do so by a peremptory writ of mandamus. *People ex rel. Bradley v. Shaw*, 45 N. Y. State Rep. 866.

The regular ballots are those which conform to the provisions of the statute, while the "marked ballots are those which are prohibited." *People ex rel. Bidelman v. Bradshaw*, 69 Hun, 596.

"Marked ballots" do not operate to render void the ballots that are regular and in accordance with the provisions of the statute. *Id.*

To hold that the casting of a "marked ballot" renders void the regular ballots, and invalidates the election, will leave it within the power of a few evil disposed persons to nullify elections and deprive citizens of their right of suffrage. *Id.*

The objection to ballots on the ground that they are marked must be made at the canvass by the inspectors of election. *People ex rel. Hirsh v. Wood*, 148 N. Y. 142. A ballot furnished by the State is not a marked ballot within the law because of any irregularity in making it up or printing it. *Id.*

The granting of the alternative writ of mandamus is so much a matter of discretion that it is not the subject of review upon appeal. *People ex rel. Ranton v. City of Syracuse* (Sup. Ct., 4th D., 1895), 88 Hun, 203.

Inspectors of election are ministerial officers and may properly be compelled by mandamus to make a further return of the results of an election, where it appears that the return made contains clerical errors and that the canvass of the votes cast was in some respects conducted in violation of the Election Law. *People ex rel. Ranton v. City of Syracuse* (Sup. Ct., 4th D., 1895), 88 Hun, 203. Where an election return has been made, but is irregular in that it does not show that any person received any votes whatever, and the alternative writ of mandamus has been issued sending back the return for correction and review, and the person who is apparently elected on the face of the return moves to quash the writ, he cannot, by presenting, on the argument of the motion, a consent to certain corrections, avoid the force or necessity of a writ of alternative mandamus. *Id.*

The meaning of the statute is that the marking of ballots for identification must be by the voters themselves. *Matter of Hirsh* (Sup. Ct., Sp. T., 1895), 14 Misc. 377. The mistake of the county clerk cannot be attributed to them. *Id.*

But the case of ballots alleged to be marked for identification is carefully provided for by the statute.

The canvassers are obliged to count the ballots marked for identification, but they have to annex them to their return. *Matter of Hirsh* (Sup. Ct., Sp. T., 1895), 14 Misc. 377. The Supreme Court is then given jurisdiction to determine whether they were marked by the voters for the purpose of identification, and, if so, to have them deducted from the totals by the canvassers of election. *Id.*

ARTICLE VI.

County and State Boards of Canvassers.**Section 130. Organization of county boards of canvassers.**

131. Production of original statements and copies thereof.
132. Correction of clerical errors in election district statements.
133. Correction in state or county board of canvassers' statement.
134. Proceedings of state board of canvassers upon corrected statement.
135. Statement of canvass by county boards.
136. Decisions of county boards as to persons elected.
137. Transmission of statements of county boards to secretary of state.
138. Organization of state board of canvassers.
139. Canvass by state board.
140. Certificates of election.
141. Record in office of secretary of state of county officers elected.

§ 130. Organization of county boards of canvassers.—The board of supervisors of each county except New York and Kings, shall be the county board of canvassers of such county. The boards of aldermen in the cities of New York and Brooklyn, respectively, shall be the county and city board of canvassers of their respective counties and cities. The members of the county board of canvassers of each county, except New York and Kings, shall meet at the office of the county clerk thereof on the Tuesday next after each election of public officers held in such county other than an election of town, city, village or district school officers held at a different time from a general election. Upon such meeting they shall choose one of their number chairman of such board. Such county clerk, or if he be absent or unable to act, the deputy county clerk of such county, shall be the secretary of such board. The secretary of the board shall thereupon administer the constitutional oath of office to the chairman of the board, who shall then administer such oath to each member and to the secretary of the board. The members of the county and city board of canvassers of the county and city of New York, and of the county of Kings and city of Brooklyn, shall meet at the place for holding their regular meetings in the cities of New

York and Brooklyn, respectively, on the Tuesday next after each election of public officers held in such county or city, respectively, or any district thereof. Upon meeting, they shall choose one of their number chairman of such board of canvassers. The clerk of such board, respectively, shall be the secretary of such board, or in his absence or inability to serve, his chief deputy shall be the secretary of the board. The secretary of the board shall thereupon administer the constitutional oath of office to the chairman of the board, who shall then administer such oath to each member and to the secretary of the board. A majority of the members of any board of canvassers shall constitute a quorum thereof. If, on the day fixed for such meeting, a majority of any such board shall not attend, the members of the board then present shall elect the chairman of the board and adjourn to some convenient hour of the next day. If such board, or a majority thereof, shall fail or neglect to meet within two days after the time fixed for organizing such board, the supreme court, or any justice thereof, or county judge within such county, may compel the members thereof by writ of mandamus to meet and organize forthwith.

§ 131. Production of original statements and copies thereof.—As soon as such board of county canvassers shall have been organized, the officer or board with which they were filed, shall deliver to such board of canvassers all the original statements of canvass and the certified copies thereof and the sealed packages of void and protested ballots. The copies of the original statements which have been delivered to members of the board or assessors shall then be delivered to the board. If any member of the county board of canvassers shall be unable to attend the first meeting of such board, he shall, at or before such meeting, cause to be delivered to the county clerk of such county all such copies of original statements delivered to him, and any original statement that may have come into his possession. If, at the first meeting of a county board of canvassers of any county, all such original statements of the result of the canvass of the votes cast at such election in all the election districts in the county shall not be produced before the board, it shall adjourn to some convenient hour of the same or the next day, and the county clerk of such county shall, by special messenger or otherwise, obtain such missing original statements, if possible, otherwise he shall procure one of the certified copies thereof in time to be produced before such board at its next meeting. At such first meeting, or as soon as an original statement of the result

of the canvass of the votes cast in such election in every election district of the county shall be produced before such board, or a copy thereof, in case the original can not be produced, the board shall, from such original statements and certified copies, and the sealed packages of void and protested ballots, proceed to canvass the votes cast in such county at such election.

The duty of a county clerk in relation to the election returns is purely ministerial. *Matter of People ex rel. Daley v. State Board, etc.*, 129 N. Y., 449. If the statement of the board of county canvassers correctly sets forth the action of the board, it is wholly immaterial to the county clerk, acting as the secretary of the board, whether such board has done its duty in a valid way or not, and it is his duty to certify thereto and record it in his office. *Id.* It is the duty of the secretary to attest the statements which the board actually makes, and the law casts upon him neither the obligation nor the responsibility of seeing that the board has discharged its duty in a manner consistent with his views of the law. *Id.*

If the county clerk does not appear, and if his deputy is also absent, the board has power to appoint a secretary in their place to perform the duties which appertain to that office. *Id.* If the secretary appears, but refuses to perform his legal duty as secretary, the board has power to designate one of its own members as a proper officer to attest, under its direction, the correctness of the statements it has caused to be made. *Id.* The remedy, in such case, is not confined to a mandamus to compel the secretary to sign. *Id.*

Where the secretary, appointed by the board, attests the statement and sends copies to the state officers, and a further statement, certified by the chairman, is delivered by the secretary *pro tem.* to the county clerk, it is the duty of the latter to attest, certify to it and forward certified copies to the state officers. *Id.*

If these various attesting officers do their duty as provided for by law, their certificates and signatures are doubtless the only proper evidence of the verity of the papers they certify. *Id.* But when these officials refuse to perform their duty, they cannot thereby prevent the further proceedings towards the completion of the canvass. *Id.* In such case, the state canvassing board may proceed upon the returns attested and forwarded by the temporary secretary. *Id.*

The board of county canvassers has no power to estimate the votes from the sample ballots attached to the returns. *People ex rel. Noyes v. Board, etc.*, 34 N. Y. St. Rep., 8. It is its duty to count the votes that appear upon the face of the returns, provided that the returns are regular upon their faces. *Id.* If they are not regular, the board should return them to the inspectors for correction. *Id.*; *People ex rel. Deuchler v. Board, etc.*, 64 How., 337; *Felt's Case*, 11 Abb., N. S., 207; *People v. Cook*, 8 N. Y., 67.

The official statements, made after and in accordance with the proclamation of the canvass, which is required to be certified to as correct over the signatures of the inspectors, form the basis of the estimate of the board of canvassers, rather than the sample ballots attached to the statement with the indorsement thereupon which is not required to be certified as correct, and to which the board of inspectors is not required to subscribe. *Matter of Noyes v. Board, etc.*, 34 N. Y. St. Rep., 127. The board must estimate the votes from the legal statement which has been certified by the inspectors. *Id.* The making up of new returns upon the day after election, and the attaching of the sample ballots thereafter to the statement made upon election night, are clearly without warrant of law. *Id.* After the inspectors have made, certified and signed the statement which the law requires, their functions are at an end. *Id.* Thereafter they have no power whatever to alter that statement, or to add thereto or to attach the sample ballot. *Id.* The board of canvassers is not authorized, for a failure to attach a sample ballot, to return the statement to the inspectors. *Id.* Where it acts ministerially only, the court has the clear right to direct its ministerial action. *Id.*

The board of canvassers is required to cast up the votes appearing upon the returns of the district inspectors, which are produced before it. *People v. Canvassers*, 64 How., 334; 12 Abb. N. C., 77, *Kutz v. Same*, 12 Abb. N. C., 84. It is not authorized to institute inquiries as to the authenticity of the returns. *Id.* If it does so, it may be compelled by mandamus to reconvene and correct its former determination. *Id.*

§ 182. Correction of clerical errors in election district statements.—If, upon proceeding to canvass such votes, it shall clearly appear to any county board of canvassers that contain matters are omitted from any such statement or copy, which should have been inserted, or that any merely clerical mistakes exists therein, they shall have power, and such power is hereby given, to summon the inspectors of election whose names are subscribed thereto, before such board, and such inspectors shall forthwith meet and make such correction as the facts of the case require; but such inspectors shall not change or alter any decision before made by them, but shall only cause their canvass to be correctly stated. The board of county canvassers may adjourn from day to day not exceeding three days in all, for the purpose of obtaining and receiving such corrected statements.

The duties of the board of canvassers are ministerial, not judicial. *People v. Van Slyck*, 4 Cow. 297; *Ex parte Heath*, 8 Hill, 42; *People v. Cook*, 8 N. Y., 67; 14 Barb., 259; *People v. Canvassers*, 64 How., 334; 13 Abb. N. C., 77; *Kutz v. Same*, 12 Abb. N. C., 84; *Ex parte Felt*, 11 Abb. N. S., 203.

It is not the duty of the board of county canvassers to ascertain which of the candidates was, in fact, elected, nor even which of them in fact received the greatest number of votes, but simply to determine from the documentary evidence before them, furnished by the action of the inspectors, and upon which alone they can act, the number of votes given for each candidate respectively. *People ex rel. Noyes v. Board, etc.*, 126 N. Y., 392. The document, from which the canvassers are required, in a ministerial capacity, to estimate and certify the votes, is called, in the statute, a statement. *Id.* The form of this statement is pointed out by the statute with care. *Id.* It must have a caption, stating the day on which, and the number of the district, the town or ward and the county in which the election is held, a statement showing the whole number of ballots for each person, etc., which shall be written in words at length; and, at the end thereof, a certificate that such statement is correct in all respects, which shall be subscribed by the inspectors. The specimen ballots and writing thereon are mere exhibits which no more control the words of the statement than did the defective ballot when first required to be preserved and attached. The county canvassers may cause any return to be sent back to the inspectors for the purpose of correcting clerical errors. *Id.* They may return a statement to the inspectors for the purpose of attaching the sample ballots and noting thereon the number of each kind voted, so far as that can be done, but not for the purpose of a recount, to vary or contradict the result expressed in the body of the certificate. *Id.* The writing in the body of the certificate must prevail over any contrary result that can be obtained from the writing on the ballot. *Id.* Where the board of county canvassers has proceeded erroneously in this respect, the court may by mandamus compel it to reconvene and correct the error. *Id.*

The county canvassers have no power to determine that ballots, with a different initial, were intended for the same person. *Kutz v. Canvassers*, 12 Abb. N. C., 84. It is their duty to canvass them as returned. *Id.*

The board of county canvassers has no power to pass upon the constitutionality of a statute. *Matter of Woods*, 5 Misc. 575.

The statute as to counting and certifying the votes of electors for the various offices is very plain and concise. *Id.*

The local inspectors must count the votes they receive and certify them; and, upon those returns, the county canvassing board must declare the result. *Id.* It has power to have clerical errors, made by the local boards, corrected, or send for complete returns under the statute. *Id.*

The power is nowhere given in the statute for the canvassing board to reject any votes that comes to it certified in due form by the local inspectors as having been cast at the election. *Id.*

The courts have, with great unanimity, sustained the proposition that these ministerial boards must simply follow the statute directing their action, and not assume in any manner, judicial functions in the discharge of their duties. *Id.*
See note under section 114.

§ 133. **Correction in state or county board of canvassers' statements.**—The supreme court may, upon affidavit presented by any elector, showing that errors have occurred in any statement or determination made by the state board of canvassers, or by any board of county canvassers, or that any such board has failed to act in conformity to law, make an order requiring such board to correct such errors, or perform its duty in the manner prescribed by law, or show cause why such correction should not be made or such duty performed. If such board shall fail or neglect to make such correction, or perform such duty, or show cause as aforesaid, the court may compel such board, by writ of mandamus, to correct such errors or perform such duty; and if it shall have made its determination and dissolved, to reconvene for the purpose of making such corrections or performing such duty. Such meeting of the board of state or county canvassers shall be deemed a continuation of its regular session, for the purpose of making such corrections, or otherwise acting as the court may order, and the statements and certificates shall be made and filed as the court shall direct, and shall stand in lieu of the original certificates and statements so far as they shall vary therefrom, and shall in all places be treated with the same effect as if such corrected statement has been a part of the original required by law. A special proceeding authorized by this section must be commenced within four months after the statement or determination in which it is claimed errors have occurred was made, or within four months after it was the duty of the board to act in the particular or particulars as to which it is claimed to have failed to perform its duty.

Where votes are returned by the board of inspectors in certain election districts as having been cast for David A. Munroe, D. A. Munroe, and D. A. Munroe, Jr., which were in fact cast for David A. Munroe, Jr., but all the sample ballots attached to the returns were printed David A. Munroe, Jr., it was held that a mandamus could properly issue to the county canvassers requiring them, before canvassing the votes, to send such returns as contained those errors back to the board of inspectors for correction. *People ex rel. Munroe v. Board, etc.*, 129 N. Y. 469. The principle laid down in *People ex rel. Noyes v. Board, etc.*, 126 N. Y. 392, does not preclude the inspectors or canvassers, when it is material to ascertain the kind of ballots voted, or the correct name of the person voted for, or the correct spelling of the name, from inspecting the sample ballot attached. But it is error for such mandamus to require the county canvassers, when these errors are corrected, to proceed to canvass the vote as it appears upon the face of the

statements and declare the result, where it appears that some ballots were improperly voted and should not be counted. *Id.*

The court can not, by a mandamus, compel the county canvassers to omit the return from a certain district upon allegations that one of the boxes was feloniously abstracted before the votes were canvassed and another containing ballots, substituted in its place. *People ex rel. Gregg v. Board, etc.*, 51 Hun, 595. Though in case of two returns, one of which is false, the court may compel the board of canvassers to canvass the true one, yet, where there is only one return, the statute gives the court no power to interfere with its canvass upon allegations of fraud. *Id.*

Chap. 460 of 1880 authorized the supreme court, in proceedings by writ of mandamus, to correct errors in the determination of boards of county canvassers whenever it shall appear, by affidavit, that errors have occurred in their determination, and the court might, by order, require said board to correct such errors, and if such board shall have made its determination and dissolved, it might be reconvened for the purpose of making such corrections, as the court should order. *People ex rel. Noyes v. Board, etc.*, 34 N. Y. State Rep. 8.

The act above cited has been repealed by the present law, but section 133, *supra*, is almost a literal transcript of said chapter.

By chap. 460 of 1880, the right of the courts to control canvassers was extended by allowing the courts to compel them to reconvene and declare a truthful result of the returns before them. *People v. Canvassers*, 64 How., 201; 2 Civ. Pro., 452; *Same v. Same*, 64 How., 357; 12 Abb. N. C., 77; *Same v. Same*, 64 How., 334; 12 Abb. N. C., 84, 95, 103.

A mandamus will not lie to compel a board of canvassers, after it has performed its duties and adjourned *sine die*, to reassemble and correct its decision. *People v. Supervisors*, 12 Barb. 217.

See section, *supra*.

The common council of the city of Albany, having once legally canvassed the votes returned for the election of mayor, has exhausted its power and can not afterwards reverse its decision. *Hadley v. Albany*, 33 N. Y., 603; *Morgan v. Quackenbush*, 22 Barb., 72.

See notes under sections 32, 110, 114, 131 and 188.

Under section 133 of the Election Law, the Supreme Court can only correct such errors as the county board of canvassers itself made. *Matter of Woods*, 5 Misc. 575.

§ 134. Proceeding of state board of canvassers upon corrected statements.— When a new or corrected statement or certificate, made by a board of county canvassers, under the provisions of the preceding section, shall vary from the original statement or certificate with reference to votes for the offices of governor, lieutenant-governor, judge of the court of appeals, justice of the supreme court, secretary of state, comptroller, state treasurer, attorney-general, state engineer and surveyor, senator or representative in congress, or either of them, the county clerk, or other officer with whom the same is filed, shall forthwith prepare and transmit certified copies thereof to the officials mentioned in section one hundred and thirty-seven of this act, in the manner therein prescribed. The secretary of state shall thereupon file in his office the certified statement received by him, and obtain from the governor and comptroller the certified statements received by them, or either of them, and file the same in his office. He shall then, and within five days

after any such certified copy of statements has been received by him, appoint a meeting of the state canvassers to be held at his office, or the office of the state treasurer or comptroller, and the said board of state canvassers shall, from such certified copies or statements, proceed to make a new statement of the whole number of votes given at the election referred to in such statement for the various offices above mentioned, or either of them, so far as the number of votes for any particular office or candidate has been changed by such new or corrected statements in the manner provided by section one hundred and thirty-nine of this act. Upon the new or corrected statement thus made, the said board of state canvassers shall then proceed to determine and declare what person or persons whose votes are affected by such new or corrected statement have been, by the greatest number of votes, duly elected to the various offices, or either of them, and the statement, certificate and declaration thereupon made shall stand in lieu of the original statement, declaration and certificate so far as the latter are changed by the former. The supreme court shall, upon application of a candidate interested in the result of such new or corrected statement, or of any elector in the county from which such statement came, and upon proof by affidavit that the same has been made and filed as herein provided, and that the state board of canvassers has neglected or refused to act thereon within the time above prescribed, require said board to act upon such new or corrected statement, and canvass the same as above provided, or show cause why it should not do so; and in the event of the failure of such board to act upon such new or corrected statement and canvass the same, or show cause as aforesaid, the court may compel such board by writ of mandamus to act upon and canvass such new or corrected statement, and make a statement, certificate and declaration in accordance therewith; and if the state board of canvassers shall have made a determination, and adjourned or dissolved before receiving such new or corrected statement, the court may compel such board to reconvene for the purpose of carrying out its order and direction; and for that purpose the meeting of said board shall be deemed a continuance of its regular session. The state board of canvassers and the secretary of state shall respectively have the same powers, and discharge the same duties with reference to statements made under this section, that they have and are charged with under the provisions of section one hundred and thirty-nine, and one hundred and forty, of this act.

§ 135. **Statements of canvass by county boards.**— Upon the completion by a county board of canvassers of their canvass of the votes so cast in such county, they shall make separate statements thereof as follows: One statement as to all the votes, if any, so cast for all the candidates for each office of elector of president and vice-president of the United States, for which the electors of such county were entitled to vote at such election; another statement as to all the votes so cast for the candidates for each state officer, except members of the assembly, and for each office of representative in congress for which the electors of such county, or any portion thereof, are entitled to vote; another statement as to all the votes, if any, cast upon every proposed constitutional amendment or other proposition or question duly submitted to all the electors of the state at such election; another statement as to all the votes cast for all the candidates for each office of member of assembly for which the electors of such county, or any portion thereof, were entitled to vote at such election; another statement as to all the votes, if any, so cast for all the candidates for each county or other office, and office of school commissioner, for which the electors of such county, or any portion thereof, were entitled to vote at such election; another statement as to all the votes, if any, so cast upon any proposition or question upon which only the electors of such county were entitled to vote at such election. Each such statement shall set forth, in words written out at length, all the votes so cast for all the candidates for each such office; and if any such office was to be filled at such election by the electors of a portion only of such county all the votes cast for all the candidates for each office in any such portion of the county designating by its proper district number or other appropriate designation, the names of each such candidate and the number of votes so cast for each, the whole number of votes so cast upon any proposed constitutional amendment or other proposition or question, and of all the votes so cast in favor of and against the same respectively. In the cities of New York and Brooklyn the county board shall make a separate statement of the votes cast for all the municipal offices voted for by the electors of such respective cities or any portion thereof. If, upon such canvass, any statement or duly certified copy of statement of the result of the canvass of the votes of any election district in such county, there shall be included any ballot indorsed by the inspectors to the effect that it was objected to as marked for identification.

the county board of canvassers shall count such ballot as though not so marked, unless otherwise ordered by a court of competent jurisdiction, but they shall add to each appropriate statement in which the counting of any such ballot or any portion thereof is included, a statement of the whole number of ballots so indorsed and counted and the number of votes on such ballot so counted for each candidate. If, upon such canvass, any statement or duly certified copy of a statement of the result of the canvass of the votes of any election district shall be included any ballot indorsed by the inspectors to the effect that it was rejected as void, the county board of canvassers shall not count such ballot unless otherwise ordered by a court of competent jurisdiction, but they shall add to each appropriate statement, a statement of the whole number of ballots so indorsed, and the number of votes on such ballots not counted for each candidate; such statements required by this section shall each be certified as correct over the signatures of the members of the board, or a majority of them, and shall be filed and recorded in the office of the county clerk of such county. At the conclusion of the canvass of each election district, the void and protested ballots of such district shall be sealed by the board, and when the whole canvass shall be completed such sealed packages shall be filed in the office of the officer or board with whom they were originally filed, together with the original statements of canvass. The certified copies of such original statement of canvass shall be retained in the office of the secretary of the board of canvassers. The sealed packages of void and protested ballots may be destroyed at the end of six months from the time of the completion of such canvass, unless otherwise ordered by a court of competent jurisdiction.

The statements returned by the county board of canvassers cannot lawfully contain anything except the whole number of votes given in each town and district, the names of the candidates and the number of votes given to each. *Matter of People ex rel. Derby v. Rice*, 129 N. Y., 461.

§ 136. Decisions of county board as to persons elected.— Upon the completion of such statements, each county board of canvassers shall determine what person has been so elected to each office of member of assembly to be filled by the electors of such county, if constituting one assembly district, or in each assembly district therein, if there be more than one, and each person elected to each county office of such county to be filled at such election, and if there be more than one school commis-

sioner district in such county, each person elected to the office of school commissioner to be filled at such election in each such district. The county clerk of the county of Hamilton shall forthwith transmit to the county clerk of the county of Fulton, a certified copy of the statement so filed and record it in his office, of the county board of canvassers of Hamilton county, as to all the votes so cast in Hamilton county for all the candidates and for each of the candidates for the office of member of assembly of the assembly district composed of Fulton and Hamilton counties; and the county clerk of Fulton county shall forthwith deliver the same to the Fulton county board of canvassers, who shall from such certified copy, and from their own statement as to the votes so cast for such office in Fulton county, determine what person was at such election, elected to such office. In the cities of New York and Brooklyn the statement of the county board as to the persons elected to municipal offices therein, shall be filed in the office of the county clerk, and a copy thereof in the office of the city clerk, or clerk to the board of aldermen. Such board of each county shall determine whether any proposition or question submitted to the electors of such county only, has been adopted or rejected. All such determinations shall be reduced to writing, and signed by the members of such board, or a majority of them, and filed and recorded in the office of the county clerk of such county, who shall cause a copy thereof, and of the statements filed and recorded in his office, upon which such determination was based, to be published in at least one newspaper published in such county, and in such other newspapers published therein as the county board of canvassers shall direct. The clerk of each county shall prepare as many certified copies of each certificate of the determination of the county board of canvassers of such county as there are persons declared elected in such certificate, and shall, without delay, transmit such copies to the persons therein declared to be elected respectively.

§ 137. **Transmission of statements of county boards to the secretary of state.**— Upon the filing in the office of the county clerk of a statement of the county board of canvassers as to the votes cast for candidates for the offices of electors of president and vice-president, or as to the votes cast for candidates for state officers, except member of assembly and for representatives in congress, or as to the vote cast upon any proposed constitutional amendment or other proposition or question submitted to all the electors of the state, such county clerk shall forthwith make

three certified copies of each such statement, and, within five days after the filing thereof in his office, transmit by mail one of such copies to the secretary of state, one to the governor, and one to the comptroller. The governor and comptroller shall forthwith, upon the receipt thereof by them deliver such certified copies to the secretary of state. If any certified copies shall not be received by the secretary of state on or before the last day of November next after a general election, or within twenty days after a special election, he shall dispatch a special messenger to obtain such certified copy from the county clerk required to transmit the same, and such county clerk shall immediately upon demand of such messenger at his office make and deliver such a certified copy to such messenger who shall, as soon as practicable, deliver it to the secretary of state. The county clerk of each county shall transmit to the secretary of state, within twenty days after a general election, and within ten days after a special election, a list of the name and residence of each person determined by the board of county canvassers of such county to be elected member of assembly, school commissioner, and to any county office; and on or before the fifteenth day of December in each year a certified copy of the official canvass of the votes cast in each such county by election districts at the last preceding general election. The secretary of state shall obtain from the governor and comptroller such certified copies so transmitted to them and file the same in his office.

§ 138. **Organization of state board of canvassers.**—The secretary of state, attorney-general, comptroller, state engineer and surveyor, and treasurer, shall constitute the state board of canvassers, three of whom shall be a quorum. If three of such officers shall not attend on a day duly appointed for a meeting of the board, the secretary of state shall forthwith notify the mayor and recorder of the city of Albany to attend such meeting, and they shall forthwith attend accordingly, and shall, with the other such officers attending, constitute such board. The secretary of state shall appoint a meeting of such board at his office, or at the office of the treasurer or comptroller on or before the fifteenth day of December next after each general election, and within forty days after each special election, to canvass the statements of boards of county canvassers of such election. He shall notify each member of the board of such meeting. The board may adjourn such meeting from day to day, not exceeding a term of five days.

The board of state canvassers act ministerially. *Matter of Sherwood v. State Board, etc.*, 129 N. Y., 380; *Matter of People ex rel. Derby v. Rice, id.*, 461.

Though the state board of canvassers has no right to consider any affidavits or papers other than the certified copies of the statements made by the boards of county canvassers, yet a writ of peremptory mandamus should not issue to the secretary of state requiring him to return such papers to the county canvassers and forbidding him from laying them before the state board. *Matter of People ex rel. Sherwood v. Rice*, 129 N. Y., 391.

The board of state canvassers must determine who has been elected upon statements which it has made up in an arithmetical manner from the various official returns of the boards of county canvassers before them, and are without power to regard or to act upon anything before them in relation to the election but the certified statements required by statute to be made and filed by the county board. *Matter of People ex rel. Derby v. Rice*, 129 N. Y., 461.

The board of state canvassers has no power or jurisdiction to go outside of the returns of the county canvassers, or to institute an inquiry as to the eligibility of the candidates who were voted for by the electors. *Matter of Sherwood v. State Board, etc.*, 129 N. Y., 380. None of the officers, clothed with the duty to canvass votes, derive any power to pass upon the eligibility of candidates and to disregard votes cast for an ineligible candidate. *Id.* The state canvassers have no official act to perform in reference to this matter, and can require no information or proof to enable them to enter upon such inquiry. *Id.* They can have no need of proof which will enable them to go back, or outside, of the returns. *Id.* There are cases in which the state canvassers may receive information or proof, one of which is, where it is claimed that the returns are spurious, or forged, or have been altered. *Id.* In such case, they may take proof by affidavit to inform themselves as to the facts. *Id.*

For the settlement of contests over elections, courts exist with adequate powers to investigate the causes of complaint, and, for that end, to take proofs and to adjudge accordingly; while as to the elections, returns and qualifications of its own members, each house of the legislature shall judge. *Matter of People ex rel. Derby v. Rice*, 129 N. Y., 461. The boards of canvassers can not hear or consider evidence outside of the returns. *Id.* They are restricted by the law of their creation to certain prescribed functions, and in their fulfillment they act under the written commands of the statute. *Id.*; *People v. Cooke*, 8 N. Y., 67.

Where the return before the state board is proper and valid on its face, but uncontradicted allegations are made that it is based upon improper and illegal action of the board of county canvassers in transposing the votes cast, whereby they enlarge the plurality of one candidate so as to change the result of the election, the court should not permit the state board to canvass such return. *Matter of People ex rel. Daley v. State Board, etc.*, 129 N. Y., 449. If another return is sent to the board, properly authenticated and containing the result of the legal action of the board of county canvassers, the state board can canvass it. *Id.*

See note under section 181.

§ 139. Canvass by state board.—Such board shall at such meeting proceed to canvass the certified copies of the statements of the county board of canvassers of each county in which such election was held. If any member of such board shall dissent from a decision of the board, or shall deem any of the acts or proceedings of the board to be irregular, and shall protest against the same, he shall state such dissent or protest in writing signed by him, setting forth his reasons therefor, and deliver it to the secretary of state, who shall file it in his office. Upon the completion of such canvass, such board shall make separate tabulated statements signed by the members of such board, or a majority

thereof, of the whole number of votes cast for all the candidates for each office shown by such certified copies to have been voted for, and of the whole number of votes cast for each of such candidates, indicating the number of votes cast in each county therefor, and if the voters of not more than one district of the state were entitled to vote for such candidates therefor, the name and number of such district, and the name of each candidate and the determination of the board of the persons thereby elected to such office; the whole number of votes shown by such certified copies to have been cast upon each proposed constitutional amendment or other proposition or question shown by such copies to have been voted upon, the whole number of votes cast in favor of and against each, respectively, and the determination of the board as to whether it was adopted or rejected. Each such statement, dissent and protest, shall be delivered to the secretary of state, and recorded in his office.

§ 140. **Certificates of election.**—The secretary of state shall thereupon forthwith transmit a copy, certified by his signature and official seal, of each such statement as to votes cast for candidates for any office, to the person shown thereby to have been elected thereto. He shall prepare a general certificate, under the seal of this state, and attested by him as secretary thereof, addressed to the house of representatives of the United States, in that congress for which any person shall have been chosen, of a due election of the persons so chosen at each election as representative of this state in congress; and shall transmit the same to the house of representatives at their first meeting. If either of the persons so chosen at such election shall have been elected to supply a vacancy in the office of representative in congress, it shall be mentioned by the secretary of state in the statements to be prepared by him.

§ 141. **Record in office of secretary of state of county officers elected.**—The secretary of state shall enter in a book to be kept in his office the names of the respective county officers elected in this state, including school commissioners, specifying the counties and districts for which they were severally elected, and their places of residence, the offices to which they were respectively elected and the terms of office.

ARTICLE VII.

Electors of President and Vice-President, and Representatives in Congress.**Section 160. Representatives in congress.**

161. Electors of president and vice-president.
162. Meeting and organization of electoral college.
163. Secretary of state to furnish list of electors.
164. Vote of the electors.
165. Appointment of messenger.
166. Other lists to be furnished.
167. Compensation of electors.
168. Laws repealed.

§ 160. **Representatives in congress.**—Representatives in the house of representatives of the congress of the United States shall be chosen in the several congressional districts at the general election held therein in the year eighteen hundred and ninety-six and every second year thereafter. If any such representative shall resign, he shall forthwith transmit a notice of his resignation to the secretary of state, and if a vacancy shall occur in any such office, the clerk of the county in which such representative shall have resided at the time of his election, shall, without delay, transmit a notice thereof to the secretary of state.

§ 161. **Electors of president and vice-president.**—At the general election in November, preceding the time fixed by the law of the United States for the choice of president and vice-president of the United States, there shall be elected by general ticket as many electors of president and vice-president as this state shall be entitled to, and each elector in this state shall have a right to vote for the whole number, and the several persons to the number required to be chosen having the highest number of votes shall be declared and be duly appointed electors.

§ 162. **Meeting and organization of the electoral college.**—The electors of president and vice-president shall convene at the capitol on the second Monday in January next following their election, and those of them who shall be assembled at twelve o'clock, noon, of that day, shall immediately at that hour fill, by ballot, and by plurality of votes, all vacancies in the electoral college occasioned by death, refusal to serve or neglect to attend at that hour, of any elector, or occasioned by an equal number of

votes having been given for two or more candidates. The electoral college being thus completed, they shall then choose a president, and one or more secretaries from their own body.

§ 163. **Secretary of state to furnish lists of electors.**—The secretary of state shall prepare three lists, setting forth the names of such electors, and the canvass under the laws of this state, of the number of votes given for each person for whose election any and all votes were given, together with the certificate of determination thereon, by the state canvassers; procure to the same the signature of the governor; affix thereto the seal of the state, and deliver the same thus signed and sealed to the president of the college of electors on the second Monday in January.

§ 164. **Vote of the electors.**—Immediately after the organization of the electoral college, the electors shall then and there vote by ballot for president and vice-president, one of whom at least shall not be an inhabitant of the same state with themselves. They shall name in their ballots the person voted for as president, and in distinct ballots, the person voted for as vice-president. They shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and after annexing thereto one of the lists received from the secretary of state, they shall seal up the same, certifying thereon, that lists of the votes of this state for president and vice-president are contained therein.

§ 165. **Appointment of messenger.**—The electors shall then, by a writing under their hands, or under the hands of a majority of them, appoint a person to take charge of the list so sealed up, and to deliver the same to the president of the senate, at the seat of government of the United States, before the third Monday in the said month of January. In case there shall be no president of the senate at the seat of government, on the arrival of the person intrusted with the lists of the votes of the electors, then such person shall deliver the lists of votes in his custody into the office of the secretary of state of the United States.

§ 166. **Other lists to be furnished.**—The electors shall also forward forthwith, by the post-office in the city of Albany, to the president of the senate of the United States at the seat of government, and deliver forthwith to the judge of the United States court for the northern district of the state of New York, similar lists signed, annexed, sealed up and certified in the manner aforesaid.

§ 167. **Compensation of electors**— Every elector of the state for the election of a president and vice-president of the United States, who shall attend at any election of those officers and give his vote at the time and place appointed by law, shall be entitled to receive for his attendance at such election, the sum of fifteen dollars per day, together with ten cents per mile each way, from his place of residence, by the most usual traveled route, to the place of meeting of such electors, to be audited by the comptroller upon the certificate of the secretary of state, and paid by the treasurer.

§ 168. **Laws repealed.**— Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

SCHEDULE OF LAWS TO BE REPEALED BY THE ELECTION LAW.

LAWS OF—	Chapter.	Sections.
1842.....	130.....	All.
1844.....	331.....	All.
1847.....	240.....	All.
1854.....	286.....	All.
1855.....	513.....	All.
1856.....	79.....	All.
1860.....	480.....	All.
1870.....	134.....	All.
1870.....	388.....	All.
1871.....	712.....	All.
1875.....	138.....	All.
1876.....	287.....	All.
1877.....	322.....	All.
1878.....	354.....	All.
1880.....	56.....	All.
1880.....	366.....	All.
1880.....	437.....	All.
1880.....	460.....	All.
1880.....	553.....	All.
1881.....	137.....	All.
1881.....	163.....	All.
1882.....	154.....	All.
1882.....	366.....	All.

LAWS OF —	Chapter.	Sections.
1882.....	410.....	1839 to 1844 inclusive, 1846, 1847 and 1848; 1850 to 1861 inclusive, 1864 to 1866 inclusive, and 1868 to 1929 inclusive, and 1931.
1883.....	380.....	All.
1883.....	422.....	All.
1885.....	446.....	All.
1887.....	265.....	All.
1888.....	583.....	For sections repealed in title XX, as amended, see chapter 236, Laws 1891, in this schedule.
1889.....	1.....	All.
1890.....	117.....	All.
1890.....	169.....	All.
1890.....	262.....	All.
1890.....	321.....	All.
1890.....	355.....	All.
1891.....	7.....	All.
1891.....	236.....	Sections 3 to 25 inclusive, all after the word "board" in the last line of section 26, and sections 27 to 32 inclusive, of title XX of chapter 583, Laws of 1888, as amended by chapter 236, Laws 1891.
1891.....	296.....	All.
1891.....	336.....	All.
1892.....	680.....	All.
1893.....	233.....	All.
1893.....	274.....	All.

LAWS OF —	Chapter.	Sections.
1893.....	370.....	All.
1894.....	61.....	All.
1894.....	275.....	All.
1894.....	302.....	All.
1894.....	348.....	2, 3, 4, 5 and 6.
1895.....	810.....	All.
1895.....	909.....	All.
1895.....	991.....	All.
1895.....	992.....	All.
1895.....	993.....	All.
1895.....	1034.....	All.

Additional Provisions of Law Applicable to Elections.

Qualifications for holding office.—No person shall be capable of holding a civil office who shall not, at the time he shall be chosen thereto, be of full age, a citizen of the United States, a resident of the state, and if it be a local office, a resident of the political subdivision or municipal corporation of the state for which he shall be chosen, or within which the electors electing him reside, or within which his official functions are required to be exercised. [§ 3 of Public Officers' Law, chap. 681, Laws 1892.]

Eligibility of town inspectors.—Every elector of the town shall be eligible to any town office, except inspectors of election shall also be able to read or write. [Part of § 50 of Town Law, chap. 569, of 1890.]

§ 10. Inspectors for towns.—The presiding officer of each annual town meeting shall, immediately after the votes are canvassed, appoint by writing, two additional inspectors of election for each election district, to be associated with the two inspectors who shall have been elected, and which inspectors, so to be appointed, shall be those two persons in each election district who shall have received the highest number of votes next to the two persons who shall have been elected inspectors, and which inspectors, so to be appointed, shall belong to and be of the same political faith and opinion on state and national issues as one or the other of the two political parties which, at the last preceding general election for state officers, shall have cast the greatest and next to the greatest number of votes in said town, but they shall not belong to the same political party nor be of the same political faith and opinion on state and national issues as the inspectors who shall have been elected. If the two inspectors elected belong to different political parties, the inspectors appointed shall be the two candidates for inspectors not elected and receiving the highest and next to the highest number of votes respectively, and belonging to different political parties. No ballot shall be counted upon which more than two names for inspector for any one election district shall appear. The various election inspectors elected, or elected and appointed, for towns, under the provision of existing laws, shall continue to serve as such inspectors until January first, eighteen hundred and ninety-five. On or before the second Tuesday in September next the several election inspectors in the various towns, appointed under the provisions of existing laws, shall each appoint one additional election inspector, who shall serve with the other three election inspectors during their term of office; such appointment shall be made in writing and filed in the office of the town clerk. Such additional inspector shall belong to and be of the same political faith on state and national issues as the political party which at the last preceding town meeting shall have cast next to the highest number of votes, and when possible shall be one of the persons

who, at the said town meeting, received next to the highest number of votes for election inspector. The additional inspector so appointed shall be subject to the provisions of existing laws, and of this act.

Am'd by chap. 348 of 1894. To take effect July 1, 1894. It repeals all acts and parts of acts inconsistent therewith.

Election of town inspectors.—There shall be elected at the annual town meeting in each town, by ballot, * * * two inspectors of election for each election district; * * * All such officers, except justices of the peace, shall hold their respective offices until others are elected in their place and have qualified. [Part of § 12 of Town Law, chap. 569 of 1890, as am'd by chap. 344 of 1893.]

Term of office of town inspectors.—Inspectors of election, * * * when elected, shall hold their respective offices for one year, * * * But whenever there is or shall be a change in the time of holding town meetings in any town, persons elected to such offices at the next annual town meeting after such change shall take effect, shall enter upon the discharge of their duties at the expiration of the term of their predecessors, and serve until the next annual town meeting thereafter, or until their successors are elected and have qualified. [Part of § 13 of Town Law, chap. 569 of 1890, as am'd by chap. 344 of 1893.]

Town inspectors in counties of more than six hundred thousand inhabitants.—The town officers of each town in counties containing six hundred thousand or more inhabitants, as determined by the last preceding federal or state enumeration of the inhabitants taken prior to any election of town officers shall be * * * also three inspectors of election for each election district * * * [Part of § 220 of Town Law, chap. 569 of 1890, as am'd by chap. 387 of 1893].

Election of town inspectors in counties of more than six hundred thousand inhabitants.—The said town officers shall be elected by ballot by the electors of each town at the annual town meeting held next preceding the general election at which they would have been elected under the present existing laws. * * * [Part of § 221 of Town Law, chap. 569 of 1890, as am'd by chap. 387 of 1893.]

Term of office of town inspectors in counties of more than six hundred thousand inhabitants.—The supervisor shall hold office for the term of two years; * * * inspectors of election, one year, all from the first day of January. [Part of § 222 of Town Law, chap. 569 of 1890, as am'd by chap. 387 of 1893.]

Town meetings in counties of more than six hundred thousand inhabitants.— The annual and special town meetings in each of said towns shall be held in the several election districts thereof, under the direction of the inspectors of election, as the presiding officers, beginning at the hour appointed for the opening of the polls at the next preceding general election. The town clerk shall provide the requisite number of printed official ballots, which shall be the same for each district, and the elections at such meetings shall be conducted, with the aid of ballot clerks and poll clerks, in the same manner as the general elections, so far as practicable. Upon the completion of the canvass, the certified result, together with the books, papers and records, shall forthwith be filed by the inspectors with the town clerk. [§ 223 of Town Law, chap. 569 of 1890. as am'd by chap. 387 of 1893.]

Ballots at town meetings in counties of more than six hundred thousand inhabitants.— The names of all the town officers to be voted for by any elector at such town meeting shall be placed upon one ballot, which shall be indorsed with the word "town;" such ballot to contain the names of not more than two candidates for inspectors of election for each of the election districts in the town, designating in connection with such names the districts for which the said several candidates are to be chosen, and if said designation is omitted, or more than two names for inspectors shall appear, the vote for such inspector shall not be counted. [§ 224 of Town Law, chap. 569 of 1890, as am'd by chap. 387 of 1893.]

Duty of town inspectors, in the transaction of town meeting business, in counties of more than six hundred thousand inhabitants.— The town business which requires a vote of the people otherwise than by ballot shall be commenced at twelve o'clock noon of the day of the annual town meeting, and completed without adjournment. All questions upon motion made at town meetings not required by law to be by ballot, shall be determined by the majority of the electors of the town voting, and the inspectors of each district shall ascertain the result by counting, in such manner as they may deem most expedient and practicable, and certify the same to the board of town canvassers at the time of making their return of the votes cast for town officers. [§ 227 of Town Law, chap. 569 of 1890, as am'd by chap. 387 of 1893.]

Appointment of additional town inspector in counties of more than six hundred thousand inhabitants.—It shall be the

duty of the justices of the peace to attend at the office of the town clerk on the second day after each town meeting, at ten o'clock in the forenoon, as a board of town canvassers, and canvass the votes of the several election districts, and the town clerk shall act as clerk in such canvass, and shall enter in his record a statement of the same, and of the number of votes for each candidate in the several districts, and of the officers elected, which record shall be signed by him and by the justice or justices acting as such canvassers. From the two persons who shall have the highest number of votes next to the two inspectors elected for each election district, the said justice or justices shall thereupon select the third inspector for such district, which shall also be entered in such record. [§ 229 of Town Law, chap. 569 of 1890, as am'd by chap. 387 of 1893.]

Official oaths.—Every officer shall take and file the oath of office required by law before he shall be entitled to enter upon the discharge of any of his official duties. An oath of office may be administered by any officer authorized to take, within the state, the acknowledgment of the execution of a deed of real property, or by an officer in whose office the oath is required to be filed, or may be administered to any member of a body of officers, by a presiding officer or clerk thereof, who shall have taken an oath of office. The oath of office of a notary public or commissioner of deeds shall be filed in the office of the clerk of the county in which he shall reside. The oath of office of every state officer shall be filed in the office of the secretary of state; of every officer of a municipal corporation, with the clerk thereof; and of every other officer, in the office of the clerk of the county in which he shall reside, if no place be otherwise provided by law for the filing thereof. [§ 10 of Public Officers Law, chap. 681 of 1892, as am'd by chap. 318 of 1893.]

Oath of office of town inspectors.—Every person elected or appointed to any town office, except justice of the peace, shall before he enters on the duties of his office, and within ten days after he shall be notified of his election or appointment, take and subscribe before some officer authorized by law to administer oaths in his county, the constitutional oath of office, and such other oath as may be required by law, which shall be administered and certified by the officer taking the same without reward, and shall within eight days be filed in the office of the town clerk, which shall be deemed an acceptance of the office; and a neglect or omission to take and file such oath, or a neglect to execute and file, within the time required by law, any official bond or undertaking, shall be deemed a refusal to serve, and

the office may be filled as in case of vacancy. [§ 51 of Town Law, chap. 569 of 1890.]

[Inspectors in towns should take the above oaths before some officer authorized by law to administer oaths in the county, within ten days after being notified of appointment, and file the same in the office of the town clerk. The result of the canvass read at a town meeting is a notice of election to an inspector whose name is upon the poll-list. If his name does not appear as a voter on the poll-list the town clerk must notify him within ten days. Inspectors in cities should take and file oath in accordance with the provisions of the various city charters.]

Filling vacancies in office of town inspector by town board.

—When a vacancy shall occur or exist in any town office, the town board or a majority of them may, by an instrument under their hands and seals, appoint a suitable person to fill the vacancy, and the person appointed, except justices of the peace, shall hold the office until the next annual town meeting. * * * The board making the appointment shall cause the same to be forthwith filed in the office of the town clerk, who shall forthwith give notice to the person appointed. * * * [Part of § 65 of Town Law, chap. 569 of 1890.]

Compensation of inspectors, poll clerks and ballot clerks in towns.—The following town officers shall be entitled to compensation at the following rates for each day actually and necessarily devoted by them to the service of the town, in the duties of their respective offices, when no fee is allowed by law for the service. The supervisor, except when attending the board of supervisors, town clerks, assessors, commissioners of highways, justices of the peace, overseers of the poor, inspectors of election and clerks of the polls, two dollars per day, each of them. [§ 178 of Town Law, chap. 569 of 1890, as am'd by chap. 297 of 1893.]

Qualifications of voters for registration.*—A qualified voter for registration must be:

1. A male citizen of the age of not less than twenty-one years.
2. A citizen at least *ninety* days previous to the election.
3. He must have been an inhabitant of the *state* for *one year* next preceding the election.
4. A resident of the *county* for the last *four months*.
5. A resident of the *election district* in which he may offer his vote, and not elsewhere, for *thirty days* next preceding the election.
6. No person shall vote at such election who shall receive, accept, or offer to receive, or pay or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote.

*See pages 170 to 181, *post*.

7. No person shall vote at any such election who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election.

8. No person shall, for the purpose of voting, gain or lose a residence by reason of his presence or absence while employed in the service of the United States; while engaged in navigating the waters of this state or of the United States, or of the high seas; or while a student in any seminary of learning; or while kept at any alms-house or other asylum at public expense; or while confined in any public prison. [See, also, § 34 of Election Law.]

Right to vote not to be denied.—The rights of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color or previous condition of servitude. The congress shall have power to enforce this article by appropriate legislation. [§§ 1, 2, art. 15, amendment to United States Constitution.]

Who entitled to vote.—Every male citizen of the age of twenty-one years, who shall have been a citizen for ninety days, and an inhabitant of this state one year next preceding an election, and for the last four months a resident of the county, and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people, and upon all questions which may be submitted to the vote of the people, provided that in time of war no elector in the actual military service of the state, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the legislature shall have power to provide the manner in which, and the time and place at which, such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside. [§ 1, art. 2, State Constitution, as am'd in 1894.]

Persons excluded from the right of suffrage, etc.—No person who shall receive, accept, or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly

interested in any bet or wager depending upon the result of an election, shall vote at such election ; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The legislature shall enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime." [§ 2, art. 2, State Constitution, as am'd in 1894.]

Pardon and restoration.— The governor has the exclusive power of pardoning and restoring to the rights of a citizen criminals convicted in the courts of this state. [See § 5, art. 4, of the State Constitution.]

Voting residence.— For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any alms-house, or other asylum, or institution wholly or partly supported at public expense or by charity; nor while confined in any public prison. [§ 3, art. 2 of State Constitution.]

A residence is "the place of abode," "the place in which one usually has his home." To reside in a particular *election district* and county is for one to have his home usually and at the time of election in such *election district*. A person, in order to entitle him to vote, must, as before stated, be a resident of such election district thirty days, of the county four months, and of the state one year, and 'for the purpose of voting' it is by our constitution provided that 'no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States; nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas, nor while a student of any seminary of learning; nor while kept at any alms-house or other asylum at public expense; nor while confined in any public prison.'

If an elector *change* his residence from one election district to another in the same county, within thirty days previous to a general or special election, he thereby loses the right of voting at such election. If he remove within thirty days of a town or city election, from one town to another, in the same county, or from one ward to another, in the same city (or from one election district to another, in the same city, or from one election district of a town having election districts for town meeting to another election district in the same town), he thereby loses the right of voting at such election, for town, ward or city officers.

It must be borne in mind that *no person can* (as is sometimes erroneously believed) vote for governor or any other officer, except in *the election district* of his actual residence." [Election Code by Secretary of State.]

Forms for Election Law.

(Form No. 1.)

[For filing this certificate, see section 59, chapter 909 of 1896.]

Party Convention Certificate of Nomination for a State, Congressional, Senatorial or Judicial Office, in a Division or District greater than a County. Section 56.

To the Secretary of State, Albany, N. Y. :

We certify that at a convention of delegates representing the party, held.....189... ,
for
(Name state, division or district.)

the following named persons were placed in nomination for offices to be filled at the next ensuing general election :

Office to be filled.	Name of the candidate.	Party.*	Place of residence of candidate.†
.....
.....
.....
.....

(Signed).....

Presiding Officer of Convention.

(Residence, city or town, street and number, if any.)

Attest :.....

Secretary of Convention.

(Residence, city or town, street and number, if any.)

STATE OF NEW YORK } ss. :
COUNTY OF.....

A B and C D, being severally duly sworn, each for himself, says that the said A B was the presiding officer of the convention of delegates mentioned and described in the foregoing certificate, and that the said C D was the secretary of such convention, and that said certificate and the statements therein contained are true to the best of his information and belief.

A B.
C D.

Severally subscribed and sworn to before }
me, this day of 189.. }

E F,

(Notary Public or Justice of the Peace.)

* To be designated in not more than five words.

† If in a city, the street and number of his residence and place of business.

Where a party nomination is made, by a State convention to be voted for by the electors of the entire State, the convention must select an emblem, of which a representation must be shown upon the above certificate. And where a political party or independent body makes no nomination for offices to be filled by the voters of the entire State, the certificate must designate a device or emblem.

(Form No. 2.)

[For filing this certificate, see section 59, chapter 909 of 1896.]

Party Committee Certificate of Nomination for a State, Congressional, Senatorial or Judicial Office, in a Division or District greater than a County Section 56.

To the Secretary of State, Albany, N. Y.:

We certify that a meeting of the (.....) Committee representing the party, held, 189..., said committee, acting under authority of the following resolution, passed, 189..., at a convention of delegates:

(Here insert resolution passed by convention.)

placed in nomination for the offices to be filled at the next ensuing election the following named persons:

Office to be filled.	Name of the candidate.	Party.*	Place of residence.†
.....
.....
.....

(Signed) }
 (Place of residence.) }
 (Majority.) }
 (Place of residence.) }
 }
 (Place of residence.) }
 }
 (Place of residence.) }

———— *Committee.*

STATE OF NEW YORK, } ss.:
COUNTY OF

A B, ..., ..., etc., being duly sworn, each for himself, says that they are members and constitute a majority of Committee representing the party, and that the foregoing certificate and the statements therein contained are true to the best of his information and belief.

Figure 1 shows a 3x4 grid of dots. The first row has 4 dots. The second row has 3 dots, with the first dot missing. The third row has 3 dots, with the first dot missing. This represents a 3x4 matrix with some elements missing.

Severally subscribed and sworn to before }
me, this day of, 189.. }

(Notary Public or Justice of the Peace.)

NOTE.—The above form of certificate can be used in committee nominations in divisions less than a State.

* To be designated in not more than five words.

† If in a city, the street and number of his residence and place of business.

(Form No. 3.)

[For filing this certificate, see section 59, chapter 909 of 1896.]

Independent Certificate of Nomination.*To the Secretary of State, Albany, N. Y.:*

We, the undersigned, duly qualified voters of the State of New York, in accordance with the provisions of the election law, hereby make the following nomination for offices to be filled at the next ensuing election in the

(State district or election division.)

Office to be filled.	Name of candidate.	Political name which signers select.*	Place of residence of the man nominated.†
.....
.....
.....
.....

And we do designate and appoint

(Name, residence and place of business.)

as a committee to represent the signers of this certificate and authorize them to nominate candidates for the offices named therein, for which no candidates are nominated in this certificate, in pursuance of section 57 of chap. 909 of the Laws of 1896, and to fill any vacancies caused by declination, death or insufficient or inoperative certificate of nomination, in pursuance of section 66 of the said act.

.....

.....

(Give city or town, street and number, if any.)

Signature.‡	Residence, town or city, street and street number, if any.
.....
.....
.....
.....

* Not more than five words to be used. See section 57.

† If in a city, also the street and number of residence and place of business.

‡ As to the number of names to be signed to this certificate, see section 57, chapter 680, Laws of 1892, as amended by chap. 810 of 1895

This certificate must designate and select an emblem.

Acknowledgment and Affidavit of each Signer to be Annexed to the Certificate signed by him.

STATE OF NEW YORK, } ss.:
COUNTY OF..... }

On this.....day of.....189..., before me personally appeared A B, to me known to be one of the persons described in and who signed the foregoing certificate and acknowledged that he signed the same, and the said A B, being by me duly sworn, deposes and says that he is a voter in the.....of.....in said county, and that he has truly stated his residence in the statement of his place of residence added to his said signature.

A B.

Acknowledged, subscribed and sworn to }
before me, this.....day of.....189... }

E F,

(Notary Public, or Justice of the Peace.)

NOTE.—It is not necessary that each signer should acknowledge separately. All or any number may be included in one acknowledgment and affidavit. The signatures need not be appended to one paper.

(Form No. 4.)

[For filing this certificate, see section 59, chapter 906 of 1896.]

Convention Certificate of Nomination for a Candidate Voted for by the Voters of only one County or a Portion of a County.†

To the county clerk of.....county, State of New York:

We certify that at a convention of delegates representing theparty, held....., 189..., for.....

(Name, county or election division.)

the following named persons were placed in nomination for offices to be filled at the next ensuing election:

Office to be filled.	Name of the candidate.	Party.*	Place of residence of candidate.†
.....
.....
.....
.....

(Name.).....

Presiding Officer of Convention.

(Residence, city or town, street and number, if any.)

Attest:

Secretary of Convention.

(Residence, city or town, street and number, if any.)

* Not more than five words to be used.

† If in a city, the street and number of his residence and place of business.

‡ Where a political party or independent body makes no nomination for offices to be filled by the voters of the entire State, the certificate must designate a device or emblem.

STATE OF NEW YORK, } ss.:
COUNTY OF.....

A B and C D, being severally duly sworn, each for himself, says that the said A B was the presiding officer of the convention of delegates mentioned and described in the foregoing certificate, and that the said C D was the secretary of such convention, and that said certificate and the statements therein contained are true, to the best of his information and belief.

A B.
C D.

Severally subscribed and sworn to before }
me, this day of, 189.. }

E F,

(Notary Public or Justice of the Peace.)

(Form No. 5.)

[For filing this certificate, see section 50, chapter 909 of 1896.]

Certificate of Nomination for a Ward, Town or Village Office.†

To the (Town or City) Clerk of.....:

We certify that a primary meeting of the voters of the..... party, held....., 189..., for.....

(Name of ward, town or village.)

the following named persons were placed in nomination for the offices to be filled at the next ensuing election in the.....

(Village, ward or town.)

Office to be filled.	Name of the candidate.	Party.*	Place of residence of candidate.†
.....
.....
.....

(Name)

(Residence and address.)

Presiding Officer.

Attest:

(Residence and address.)

Secretary.

STATE OF NEW YORK, } ss.:
COUNTY OF.....

A B and C D, being severally duly sworn, each for himself, says that the said A B was the presiding officer of the primary meeting mentioned and described in the foregoing certificate, and that the

* Not more than five words to be used.

† If in a city, the street and number of his residence and place of business.

‡ Where a political party or independent body makes no nomination for offices to be filled by the voters of the entire State, the certificate must designate a device or emblem.

said C D was the secretary of said primary meeting, and that said certificate and the statements therein contained are true, to the best of his information and belief.

A B.
C D.

Severally subscribed and sworn to before }
me, this day of, 189.. }

E F,

(Notary Public or Justice of the Peace.)

(Form No. 6.)

Form of Printed Poster or List to be sent by County Clerk or City Clerk to each Town Clerk or Alderman in County or City.

[Same to be posted by Town Clerk or Alderman in election districts. For time of sending and posting, see section 62.]

To the (Town Clerk or Alderman) of (Town of or ... Ward of):

Please take notice that the following named persons have been nominated as candidates for office, to be voted for at the next ensuing election to be held in your (town or ward) on, 189.., as follows:

Name of the candidate.	Place of residence and business.*	Office to be filled.	Party.	Fac-simile of emblems of each candidate.
.....
.....
.....
.....

(Signed).....

Clerk of county.

(Form No. 7.)

List of Nominations to be Published by County Clerk. Section 61.

To the Voters of (..... county):

The following is a true and correct list of all nominations to office certified to me pursuant to the provisions of chapter 909, of the Laws of 1896:

Name.	Residence and place of business.*	Office to be filled.	Party designating candidate.	Fac-simile of emblems.
.....
.....
.....
.....

(Signed).....

Clerk of county.

* I in a city, the street number of residence and place of business.

(Form No. 8.)

List of Nominations to be Posted by Town or Village Clerk. Section 63.
To the Voters of (town or village of):

The following is a true and correct list of all nominations to office filed with me pursuant to the provisions of chap. 909 of 1896:

Name.	Residence.*	Office to be filled.	Party.	Fac-simile of emblems.
.....
.....
.....
.....

.....
 Clerk.

(Form No. 9.)

Declination of Nomination. Section 64.

To the Secretary of State (or other officer):

SIR.— Please take notice that I decline the nomination for the office of, tendered me by the (convention, primary or voters) of the party, filed in your office.

Dated

Yours,

.....

STATE OF NEW YORK, } ss.:
 COUNTY OF

On this day of, 189..., before me personally came to me known to be the person described in, and who executed the foregoing declination, and he acknowledged the same for the purposes therein mentioned.

.....
Notary Public or Justice of the Peace.

(Form No. 10.)

Certificate of Appointment of Ballot and Poll Clerks. Section 11.

We certify that we have this day appointed A B and C D to serve as ballot clerk and poll clerk, respectively, at this poll during the election this day.

(Signed)

.....

Inspectors of Election.

Dated

* If in a city, the street number of residence and place of business.

(Form No. 11.)**Oath of Office Prescribed by Law for Inspectors of Election. Section 12.**

I do solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of New York, and that I will faithfully discharge the duties of the office of..... according to the best of my ability.

And I do further solemnly swear that I have not, directly or indirectly, paid, offered or promised to pay, contributed, or offered or promised to contribute, any money or other valuable thing, as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote.

(Signed).....
 Subscribed and sworn to before me, {
 this day of, 189.. }

(Form No. 12.)**Oath of Office Prescribed by Law for Poll and Ballot Clerks. Section 12.**

I do solemnly swear I will support the Constitution of the United States and the Constitution of the State of New York, and that I will faithfully discharge the duties of the office of Poll or Ballot Clerk according to the best of my ability.

(Signed).....
 Subscribed and sworn to before me, {
 this day of, 189.. }

(Form No. 13.)**Town Clerk's or City Clerk's Receipt for Official Ballots Received from County Clerk. Section 87.**

Received of..... Clerk of..... county,
 One package of official ballots, containing.....ballots (.....party.....)
 One package of official ballots, containing.....ballots (.....party.....)
 One package of official ballots, containing.....ballots (.....party.....)
 One package of sample ballots, containing.....ballots (.....party.....)
 One package of instruction cards.....
 Stationery (itemized).....
 Dated..... (Signed).....
 (Town or city) Clerk.

(Form No. 14.)**Election Inspectors' Receipt for Official Ballots Received from Town or City Clerk. Section 87.**

Received of..... (city or town) Clerk.....
 One package of official ballots, containing.....ballots (.....party.....)
 One package of official ballots, containing.....ballots (.....party.....)
 One package of official ballots, containing.....ballots (.....party.....)
 One package of sample ballots, containing.....ballots (.....party.....)
 One package of instruction cards.....
 Stationery (itemized).....
 Dated..... (Signed).....

Inspectors Election.
 Dist. Poll (town or city).

(Form No. 15.)

Oath to be Administered in Case of Physical Disability. Sections 34, subd. 3.

You do solemnly swear (or affirm) that you will be unable to write by reason of illiteracy,or you do solemnly swear (or affirm) that you will be unable to prepare your ballot without assistance, because (insert specific cause or reason assigned by voter for disability), or you do solemnly swear (or affirm) that you will be unable to enter the voting booth without assistance, because (insert specific disease or crippled condition)or, you do solemnly swear (or affirm) that by reason of an accident (specifying time and place thereof), or of disease (specifying nature thereof), you have, since the day upon which you registered, lost the use of both hands, or become totally blind, or so crippled that you cannot enter the voting booth and prepare your ballot without assistance.

.....

The last clause is for voter who registered without oath of disability.

(Form No. 16.)

Oath of Election Officer before Opening of Polls.*

STATE OF NEW YORK, } ss.:
COUNTY OF..... }

....., being duly sworn, says that he will not in any manner request, or seek to persuade, or induce any elector to vote any particular ticket or for any particular candidate, and will not keep or make any memoranda or entry of anything occurring within the voting booth, and will not, directly or indirectly, reveal to any person the name of any candidate voted for by any elector, or which ticket he has voted, or anything occurring within the voting booth, except he is called upon to testify in a judicial proceeding for a violation of the Election Law.

.....

Sworn to before me, this.... }
day of....., 189.. }

.....

(Official signature.)

* Same oath may be administered to person rendering such assistance. See Election Law, sec. 104 subd. 2.

(Form No. 17. Section 19 of Town Law.)**Appointment of Additional Inspector of Election.***

STATE OF NEW YORK, }
 COUNTY OF....., } ss.:
 Town of....., }

We, the undersigned, presiding officers (or a majority of the presiding officers) of the annual town meeting, held in the town of....., on the.....day of....., A. D. 18.., do hereby appoint....., in election district No. 1, and.... in election district No. 2, in said town, inspectors of election in said districts respectively, to be associated with the two inspectors in each of said districts respectively, who have been this day elected inspectors of election for the ensuing year; and we hereby certify that the said.....and.....were each one of the two persons who received at said town meeting the highest number of votes respectively for said office of inspectors of elections, next to the two inspectors in each of said districts, who were elected.

Dated at....., this.....day of....., A. D. 18...

This order should be signed by the whole or by a majority of such presiding officers and should be filed in the town clerk's office.

(Form No. 18. Section 51 of Town Law.)**Oath of Office of Inspector.**

STATE OF NEW YORK, }
 COUNTY OF....., } ss.:

I,, of the town of....., in the county and state aforesaid, having been elected.....of said town, do solemnly swear (or affirm) that I will support the Constitution of the United States of America, and the Constitution of the state of New York, and that I will faithfully discharge the duties of the office of inspector of election of said town to the best of my ability. And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed, or offered or promised to contribute, any moneys or other valuable thing as a consideration or reward for the giving or withholding of a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding of any such vote.

Subscribed and sworn to before me, }
 this....day of....., 18.., }

.....,

Justice of the Peace.

* See section 18 of Election Law.

ACCOMPANYING CERTIFICATE.

STATE OF NEW YORK, }
 COUNTY OF....., } ss.:
 Town of....., }

I,, a justice of the peace in and for the town of, in the county aforesaid, do hereby certify that on the day of, 18.., before me personally appeared, of the town aforesaid, who then and there duly took and subscribed the foregoing oath of office.

Dated this day of, 18...

.....,
Justice of the Peace.

The additional inspector appointed under section 19 of the Town Law must take the above oath of office.

(Form No. 19. Section 65 of Town Law.)

Order of Town Board Appointing Inspector of Election to Fill Vacancy.

STATE OF NEW YORK, }
 COUNTY OF....., } ss.:
 Town of....., }

WHEREAS, a vacancy has occurred in the office of inspector of election in the first election district of the town of, aforesaid, by reason of a failure to choose or appoint inspectors of election at the last annual town meeting (or by reason of their absence, or that they have ceased to be residents of such district, or that they are unable to attend and hold an election, as the case may be); now, therefore, we, the undersigned supervisor, town clerk and justices of the peace in such town, having duly met for the purpose of filling such vacancies, do hereby, by virtue of the power and authority vested in us by law, in order to fill such vacancies, designate and appoint and to be inspectors of election in the first election district, and and to be inspectors of election in the second election district of said town; each of the persons so appointed being electors of the election district for which he is appointed and qualified according to law.

In witness whereof we have hereto set our hands and seals
 [L. S.] this.....day of, A. D. 18..

(Signatures and seals.)

(The order of appointment must be filed with the town clerk.)

(Form No. 20. Section 12 of Election Law.)**Form for Appointment, by Inspectors, of Inspector to Fill Vacancy.**

There being a vacancy in the office of inspector for election district No. of the town of, held by, I (or we) hereby appoint to fill such vacancy.

Dated the ... day of, 189..

Inspector of Election.

(To be filed in city or town clerk's office.)

(Form No. 21. Section 12 of Election Law.)**Form for Designation, by Inspectors, of Elector to Act as Inspector.**

_____, not being present at the meeting of inspectors held this day, I (or we) hereby designate _____, a duly qualified elector of election district No... of the town of, to act as inspector, in place of _____, until he shall appear.

Dated the....day of, 189..

Inspector of Election.

(To be filed in city or town clerk's office.)

(Form No. 22. Section 12 of Election Law.)**Form for Designation, by Electors, to Fill Vacancies.**

The offices of all the inspectors for election district No.... of the town of, being vacant, we, the undersigned, qualified voters of said district, present, do hereby designate _____, and _____, duly qualified voters of the said district, to fill such vacancies.

(Should be signed by not less than ten duly qualified electors and filed in city or town clerk's office.)

(Form No. 23. Section 12 of Election Law.)**Form for Designation, by Electors, of Persons to Act as Inspectors.**

All of the inspectors of election for election district No.... of the town of, not appearing within one hour after the time fixed by law for the opening of the meeting of inspectors held this day, we, the undersigned, duly qualified electors of said district, hereby appoint _____ to act in the place of _____, and _____ to act in the place of _____, or until such absent inspectors, respectively, appear.

Dated this day of, 189..

(To be signed by not less than ten duly qualified electors and filed in city or town clerk's office.)

Persons appointed or designated, under section 15 of Election Law, to act as inspectors of election, must subscribe and take the same oath as regularly elected inspectors. (See Form No. 19.)

(Form No. 24. Section 12 of Election Law.)

Form for Appointment of Poll Clerks and Ballot Clerks.

We, the undersigned, inspectors of the....election district of the town of on this day of November, A. D. 18.. do hereby appoint ——— to the office of poll clerk or ballot clerk in and for said district for the ensuing year.

Dated November.... 189..

_____,
_____,
_____,
Inspectors.

(Appointment to be filed with town clerk or city clerk.)

Where the law provides for the appointment of all the inspectors of any election district, the authority appointing such inspectors shall appoint the poll clerks and ballot clerks of such district, for the same terms of office as the inspectors. [Section 12 of Election Law.]

(Form No. 25. Section 12 of Election Law.)

Form for Appointment of Poll or Ballot Clerk to Fill Vacancy.

There being a vacancy in the office of poll clerk (or ballot clerk) in election district No. of the town of we hereby appoint ——— to fill such vacancy.

Dated this day of, 189..

_____,
_____,
Inspectors of Election.

(Form No. 26. Section 12 of Election Law.)

Form for Designation of Person to Act in Place of Absent Poll or Ballot Clerk.

———, a duly appointed poll or ballot clerk, not being present at the meeting of inspectors of election, in election district No. of the town of, held this day, I (or we) hereby designate ——— to act as poll or ballot clerk, in place of ———, until he shall appear.

Dated this day of , 189..

Inspector of Election.

(The above appointments or designations to be filed with the town clerk or city clerk.)

(Form No. 27. Section 167 of Town Law.)

Form of Bill for Compensation.

ALBANY, *November*, 18...

TOWN OF,

To ———, INSPECTOR OF ELECTION, *Dr.*

18...

Oct.	—.	To attendance at meeting for registry.....	\$4 00
	—.	To attendance at meeting for registry.....	4 00
Nov.	—.	To attendance at election*.....	4 00
	—.	To filing election returns, etc., in county clerk's office †	5 00
	—.	To mileage in filing election returns, etc., in county clerk's office, 25 miles at 4c †	1 00
			<hr/>
			\$18 00
			<hr/>

STATE OF NEW YORK, }
ALBANY COUNTY, } ss.:

———, inspector of election for the first election district of the town of, in said county, being duly sworn, deposes and says, that the items contained in the foregoing account are correct, and that the services charged therein have been in fact rendered and that no part thereof has been paid or satisfied.

———,
Inspector of Election.

Sworn to before me, this }
day of, 18... }

.....

(The above oath may be taken before the chairman of the town board or any other person authorized to administer oaths.)

*There appears to be no general provision of law fixing the number of hours for a day's service. The question is appropriately one for settlement by town or city auditing boards. It is customary, however, in many of the counties, to allow two days' compensation for each day of attendance at meetings for registry and on election day.

†In towns inspectors cannot charge for this service, and only the inspector designated to file returns should include this item in his bill.

(Form No. 31. Section 34, subd. 6 of Election Law.)**Form of Preliminary Oath on Challenge for Registry.**

"You do swear (or affirm) that you will fully and truly answer all such questions as shall be put to you, touching your place of residence and qualifications as an elector."

Questions under Preliminary Oath.

1. What is your name?
2. What is your age?
3. Where do you reside? State precisely as you are able your residence, by street and number, if it have a street number, and otherwise describe the locality thereof.

(If not a householder), state the name of the householder with whom you reside, and in like manner describe the residence of such householder.

4. How long have you resided in this election district?
5. What was your last place of residence before you came into this election district?
6. How long have you resided in this country?
7. How long have you resided in this state?
8. Are you a native or naturalized citizen?

If a naturalized citizen the following questions should be asked:

9. *When were you naturalized?*
10. *Where, and in what court, or before what officer?*
11. How long have you resided in the United States?
12. Did you come into this election district for the purpose of voting at the next ensuing election?
13. How long do you contemplate residing in this election district?
14. Have you made any bet or wager, or are you directly or indirectly interested in any bet or wager depending on the result of the next ensuing election?
15. Have you received, or offered to receive, or do you expect to receive, any money or other valuable thing as a compensation or reward for giving your vote at the next ensuing election?
16. Have you paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing, or made any promise so influence the giving or withholding of any vote at the next ensuing election?
17. Have you been convicted of bribery or any infamous crime, or if so convicted, have you been pardoned and restored to all the rights of a citizen?

In addition to all may be asked other questions which may tend to test the qualifications of the applicant for registry as a resident of the election district, citizenship and right to vote at such election at such polling place.

After receiving answers in full to these and such other questions as may be put, the board shall, if satisfied, enter name of applicant upon register, or, if not, are to point out to the challenged person the qualification or qualifications (if any) in respect to which he shall appear to

them to be deficient. If he persists in his claim to be registered and the challenge be not withdrawn, one of the board may then administer to him the following:

Form of General Oath.

"You do swear (or affirm) that you are twenty-one years of age, that you have been a citizen of the United States for ninety days, and an inhabitant of this state for one year next preceding this election, and for the last four months a resident of this county, and for thirty days a resident of this election district, and that you have not voted at this election."

If the person so offering to vote shall be challenged for causes stated in section two of article two of the constitution of this state the following additional oath shall be administered by one of the inspectors:

"You do swear (or affirm) that you have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used any money or other valuable thing as a compensation or reward for the giving or withholding a vote at this election, and have not made any promise to influence the giving or withholding of any such vote; and that you have not made, or become directly or indirectly interested in any bet or wager depending upon the result of this election."

If the person so offering shall be challenged on the ground of having been convicted of bribery or any infamous crime, the following additional oath shall be administered to him by one of the inspectors:

"You do swear (or affirm) that you have not been convicted of bribery or any infamous crime, or if so convicted, that you have been pardoned and restored to all the rights of a citizen."

(Form No. 32. Section 35, subd. 1.)

Form of Certificate of Registration.

(To be made at the close of each meeting for registration of electors for general or other election elsewhere than in a city, or in a district wholly within a village having five thousand inhabitants or more.)

STATE OF NEW YORK, }
..... } ss:

We hereby certify that the above register as it now is, comprising (here insert the number) names, is a true and correct register of all electors qualified to vote at such election in such district, who have personally applied for registration, or whose names the board was required to place thereon.

Dated,, 189..

.....
.....
.....

Inspectors.

(Form No. 33. Section 35, subd. 1.)**Form of Certificate of Registration.**

(To be made at the close of each meeting for registration of electors for general or other election in a city, or an election district wholly within a village having five thousand inhabitants or more.)

STATE OF NEW YORK, } ss.:
 }

We hereby certify that the above register as it now is, comprising (here insert the number) names, is a true and correct register of the names and residences of all the electors qualified to vote at the election in this district, who have personally appeared before the board of registration.

Dated, 189..

.....

Inspectors.

(Form No. 34. Section 84.)

Tally Sheet.

List of offices.	REPUBLICAN TICKET.				DEMOCRATIC TICKET.				Total number of votes cast and counted for each candidate on straight ballots.	Number of votes cast and counted for each candidate on split ballots.	Total number of votes cast and counted for each candidate.	Total number of ballots not wholly blank, on which no vote was counted for the following offices.	Total number of wholly blank ballots.	Total number of void ballots.	Total number of ballots accounted for.
	Number of votes cast and counted for each candidate on straight ballots.	Number of votes cast and counted for each candidate on split ballots.	Total number of votes cast and counted for each candidate.	Number of votes cast and counted for each candidate on straight ballots.	Number of votes cast and counted for each candidate on split ballots.	Total number of votes cast and counted for each candidate.	Number of votes cast and counted for each candidate on straight ballots.	Number of votes cast and counted for each candidate on split ballots.							
Governor.....	350	350	350	350	350	350	350	350	350	350	350	350	4	1	1
Lieutenant-Governor.....	350	350	350	350	350	350	350	350	350	350	350	350	2	1	1
.....															
.....															
.....															
.....															
.....															
.....															
.....															

(Form No. 35. Section 84.)**Form of Ballot Return.*****SAMPLE.**

Form of ballot return to be prepared by the ballot clerks, and attached to the original statement of canvass made by the inspectors and to each copy, in compliance with subdivision two of section one hundred and three of the Election Law:

1. The number of full sets of official ballots furnished to election district number (five) of the (town of Canandaigua), county of (Ontario), were.	800
2. The number of sets of official ballots cancelled before delivery to voters by reason of one or more of the set being found defective in printing or mutilated, all of which were destroyed by us, were.	5
3. The number of sets of official ballots spoiled and returned by voters, all of which were destroyed by us, were.	10
4. The number of sets of official ballots returned to the county clerk or other officer, unused, were.	300
5. The number of sets of official ballots actually voted were.	485
6. Total sets of official ballots accounted for are.	800
7. The number of sets of detached stubs were.	500
8. The number of sets of stubs on unused ballots were.	300
9. The total sets of stubs accounted for are.	800

We hereby certify that the foregoing ballot return for election district number (five) of the (town of Canandaigua), county of (Ontario), for the election held November (5th, 1895), is correct.

(Signed.)

Ballot Clerks.

(Form No. 36. Section 84.)**Form of Inspectors' Return and Statement of Canvass.*****SAMPLE.**

Inspectors' returns and statement of canvass.—*Original* official statement of the result of a (general) election, held on the (fifth) day of November (1895), in the (fifth) election district of the (town of Canandaigua), county of (Ontario), state of New York, made by the inspectors of election in and for said district, which return is made as provided in section one hundred and eleven of the Election Law.

* See section 103, subd. 2, of Election Law.

Return of Ballots Voted.

1. The whole number of general ballots actually voted, as verified by the return of the ballot clerks attached hereto, were (four hundred and eighty-five).....	485
2. The number of general ballots cast and found to be entirely blank, all of which were returned by us to the ballot box, were (five).....	5
3. The number of general ballots cast which were rejected by us as "void" and on which no vote was counted for any candidate, all of which are in the sealed package returned herewith, and on each of which ballot is indorsed the reason for such rejection, were (ten).....	10
4. The number of general ballots cast on which votes were counted for one or more candidates, all of which were returned to the ballot box (except those protested as being marked for identification), were (four hundred and seventy)	470
5. The total number of ballots accounted for by us are	485

We certify the foregoing statement of ballots voted is correct in all respects.

Dated, this (fifth) day of November, (1895).

.....

Board of Inspectors.

(Form No. 37. Section 84.)**Statement and Return of the Votes for the Office of (Governor).***

1. The number of ballots cast on which votes were counted for any candidate for office were (four hundred and seventy)...	470
2. The number of ballots cast and counted on which there was no vote for the office of (governor) were (five).....	5
3. The whole number of ballots on which votes were counted for the office of (governor) were (four hundred and sixty-five)	465
4. Of which (Levi P. Morton) received (three hundred)	300
5. (David B. Hill) received (one hundred and sixty-five).....	165
Total	465

* See section 103, subd. 2, of Election Law.

Statement and Return of the Votes for the Office of (Lieutenant-Governor).

1. The whole number of ballots cast on which votes were counted for any candidate for office were (four hundred and seventy)	470
2. The number of ballots cast and counted on which there was no vote for the office of (lieutenant-governor) were (seven)	7
3. The whole number of ballots on which votes were counted for the office of (lieutenant-governor) were (four hundred and sixty-three)	463
4. Of which (Charles T. Saxton) received (three hundred and three)	303
5. (William F. Sheehan) received (one hundred and sixty)	160
Total	463

Statement and Return of the Votes for the Office of (County Clerk).

1. The whole number of ballots cast on which votes were counted for any candidate for office were (four hundred and seventy)	470
2. The number of ballots cast and counted on which there was no vote for the office of (county clerk) were (ten)	10
3. The whole number of ballots on which votes were counted for the office of (county clerk) were (four hundred and sixty)	460
4. Of which (John Doe) received (three hundred and fifteen) ..	315
5. (Richard Roe) received (one hundred and forty-five)	145
Total	460

The number of general ballots "protested as marked for identification" (all of which are in the sealed package returned herewith together with the void ballots) each of which have been indorsed by us "protested as marked for identification," the mark or marking to which objection was made being specified upon the back of each such ballot, and all of which were counted for the several candidates voted thereon in the foregoing returns, were (three,.....) (3)

But such number does not include any ballot which was rejected by us as void. Such void ballots are included in our return as "void" ballots on which no vote for any candidate was counted and are marked upon the back thereof "void" and indorsed with the reason for so declaring them. They are in the sealed package returned herewith together with the ballots "protested as being marked for identification."

We certify the foregoing statement is correct in all respects.
Dated, this (fifth) day of November, (1895).

.....
.....
.....
.....

Board of Inspectors.

(NOTE.—A similar certificate is to be made at the bottom of each sheet or half sheet of this return. If ballots are voted on any constitutional amendment or question or proposition submitted, a similar return is to be included. Two certified copies of this original statement and return are to be made.)

(Form No. 38. Section 84.)

Blank for the Report of Assisted and Challenged Electors.*

Three blank statements in the following form shall also be furnished to each board of inspectors, which shall, at the close of the election, be filled by them, and one original statement shall be attached to the original return, and a copy thereof to each copy of the original return.

1. The names of persons who were challenged, and the challenge not withdrawn, were, in all, three.... (3)
2. The names of persons who received assistance on account of physical disability, were, in all, five.... (5)
3. The names of persons who received assistance on account of being unable to write by reason of illiteracy, were, in all two.... (2)

We certify the foregoing statement is correct.

Dated, this (fifth) day of November, (1895).

.....
.....
.....
.....

Board of Inspectors.

(Form No. 39. Section 100 of Election Law.)

Proclamation of Opening the Polls.

Hear ye! hear ye! hear ye! The polls of this election is opened, and all persons attending the same are strictly charged and commanded, by the authority and in the name of the people of this state, to keep the peace thereof during their attendance at this election on pain of imprisonment. And all persons are desired to take notice that the poll will be closed at sunset.

(Form No. 40. Section 15 of Election Law.)

Form of Precept in Case of Refusal to Obey the Lawful Commands of the Inspectors.

[Blank precepts should be provided beforehand and be in possession of the board ready to be filled up for use.]

The people of the State of New York to the sheriff of the (city and) county of, or the constable of said (city or) county:

Whereas, at the present annual (or special) election, held in and for election district number, in the town of (or in the

* See section 108, subd. 2, of Election Law.

.....ward of the city of.....), or said county, — —, did willfully and intentionally obstruct the passageway to the polls of the said election, thereby hindering and preventing free access to the said poll, in open and known violation of the command of us, the undersigned, inspectors of this election, previously and publicly given in his hearing. You are, therefore, hereby ordered forthwith to arrest the said — —, and him safely keep and detain in custody until the final canvass of the votes given in this election district shall be completed.

Given under our hands and seals this...day of....., 18..

(To be signed by all or a majority of the inspectors.)

(Form No. 41. Section 15 of Election Law.)

Form of Deputation to be Written on Back of Precept in Case no Sheriff or Constable is Present.

No sheriff or constable being present we hereby depute to execute the within process.

(To be signed by all or a majority of board.)

(Form No. 42. Section 15 of Election Law.)

Form of Precept in Case of Disorderly Conduct in Presence or Hearing of Inspectors.

The People of the State of New York to the sheriff of the (city and) county of....., or to any constable of said county:

Whereas, At the present annual (or special) election, held in and for election district number...., in the town of.....(or in the....ward of the city of.....), in said (city and) county. — —, in the presence (or in the hearing) of us, the undersigned inspectors of the said election, did by disorderly conduct, to-wit, by (here describe the misconduct particularly, as by loud and boisterous noises, or by violent stamping, or by assaulting, etc., or by commencing a riot and affray with divers persons, or as the case may be) interrupt and disturb the proceedings of us, the said inspectors, in conducting the election. You are, therefore, hereby ordered forthwith to arrest the said, and him safely detain in custody until the final canvass of the votes given in this election district shall be completed.

Given under our hands and seals this...day of....., 18..

(The above should be signed by, at least, a majority of the inspectors.)

(Form No. 43. Section 102, subd. 3.)**Form of Page of Poll-Book.**

Number of electors.	NAMES OF ELECTORS.	Residence of electors.	Number of ballots delivered to electors	Number on ballots.	Remarks.
1.....	Adams, John.....	10 Grand	1	1	.....
4.	Allen, Charles.....	50 Hawk.	8	8	.....
.....
.....
.....

(Form No. 44. Section 108, subd. 1 of Election Law.)**Form of Preliminary Oath and Examination for Voting.**

You do swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your place of residence and qualification as an elector.

1. What is your name?
2. What is your age?
3. Where do you now reside? State as precisely as you are able the particular locality of your place of residence.
4. How long have you resided in this election district?
5. What was your last place of residence before you came into this election district?
6. How long have you resided in this county?
7. How long have you resided in this State?
8. Are you a native or naturalized citizen?
If a naturalized citizen.
9. When were you naturalized?
10. Where and in what court, or before what officer?
11. How long have you resided in the United States?
12. Did you come into this election district for the purpose of voting at the next ensuing election?
13. How long do you contemplate residing in this election district?

14. Have you made any bet or wager, or are you directly or indirectly interested in any bet or wager depending on the result of the next ensuing election ?

15. Have you received, or offered to receive, or do you expect to receive, any money or other valuable thing as a compensation or reward for giving your vote at the next ensuing election ?

16. Have you paid, offered or promised to pay, contributed, offered or promised to contribute, to another, to be paid or used, any money or other valuable thing, or made any promise, to influence the giving or withholding of any vote at the next ensuing election ?

17. Have you been convicted of bribery or any infamous crime, or, if convicted, have you been pardoned and restored to all the rights of citizenship ?

In addition, such other questions may be asked which may tend to test the qualifications of the person offering to vote as a resident of the election district, citizenship and right to vote at such polling-place.

(Form No. 45. Section 108, subd. 2.)

General Oath on Challenge.

If the person so offering to vote shall persist in his claim to vote, and the challenge shall not be withdrawn, one of the inspectors shall then administer to him the following oath: "You do swear (or affirm) that you are twenty-one years of age, that you have been a citizen of the United States for ninety days, and an inhabitant of this State for one year next preceding this election, and for the last four months a resident of this county, and for thirty days a resident of this election district, and that you have not voted at this election."

If the person so offering to vote shall be challenged for causes stated in section 2 of article 2 of the constitution of this state, the following additional oath shall be administered by one of the inspectors: "You do swear (or affirm) that you have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at this election, and have not made any promise to influence the giving or withholding of any such vote; and that you have not made, or become directly or indirectly interested in any bet or wager depending upon the result of this election."

If the person so offering shall be challenged on the ground of having been convicted of bribery or any infamous crime, the following additional oath shall be administered to him by one of the inspectors: "You do swear (or affirm) that you have not been convicted of bribery or any infamous crime, or if so convicted, that you have been pardoned and restored to all the rights of a citizen."

(Form No. 46. Section 108, subd. 3 of Election Law.)**Form of Memorandum of Challenges.**

At a general election held in election district No., in the town of, (or in the ward of the city of), in the county of, on the day of November, 18... the following persons were challenged and respectively took the oath or oaths as stated below, to-wit:

....., each took the preliminary oath; whereupon the challenge was in each case withdrawn.

....., each took the preliminary and also the general oath (or affirmation).

We certify that the above is all such minutes as to all persons challenged at this election.

Dated at, November, 189..

.....

Inspectors.

(Form No. 47. Section 111 of Election Law.)**Form of Statement of Canvass.**

Statement of the result of a general election held in and for the election district of the town of (or of the ward of the city of), in the county of, on the day of November, in the year of our Lord one thousand eight hundred and, made by the inspectors of election in and for said district, viz.:

Protested as marked for identification, five votes.

Number of void ballots rejected, ten.

We certify that the foregoing statement is in all respects correct.†

Dated this day of November, in the year 189..‡

.....

Inspectors.

* Here insert separate return for each office of the votes cast for each candidate therefor in the form prescribed for such returns and statement in section 84, ante. See Form No. 37.

† This certificate should be made at the end of each return contained in the original statement of the canvass, and also at the bottom of each sheet or half sheet thereof. Any inspector or poll clerk or ballot clerk who shall refuse to sign any return required by the Election Law, must state the grounds upon which such refusal is based upon such return over his signature. See section 111 of Election Law.

‡ On the first page or pages of this statement there should be a return of the ballots voted.

Additional certificate to be subjoined to COPIES to be filed in town or city clerk's office:

We certify that the foregoing is a true copy of the original statement made by us for the board of county canvassers.

.....

Inspectors.

(Form No. 48, Section 112 of Election Law.)

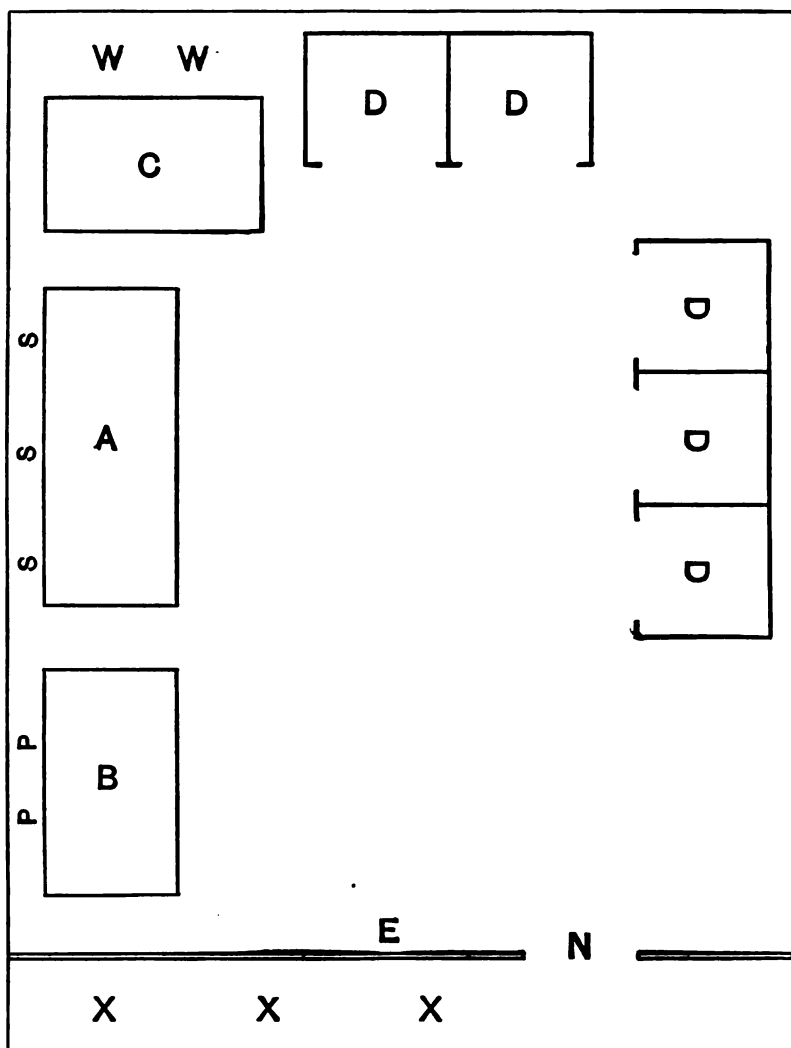
Form for Proclamation of Result.

Hear ye ! hear ye !! hear ye !!! The whole number of votes given for the office of....., found in the box just canvassed, was....; of which number there were given for said office, for.....,, for.,, for....., (naming each person voted for, for the office of, and the number of votes given for him for that office).

The whole number of votes given for the office of....., found in the same box, was....; of which there were given for that office for.....,, for....., (*Proceed with the votes given for the different candidates.*)

(Form No. 49. Section 17.)

DIAGRAM OF ROOM EIGHTEEN BY TWENTY FEET, ILLUSTRATING
LOCATION OF FIVE BOOTHS FOR POLL OF TWO HUNDRED AND
FIFTY VOTERS, WITH LOCATION OF ELECTION OFFICERS.



- A—Table, Inspectors of Election (in plain view of the booths).
 B—Table, Ballot Clerks.
 C—Table, Clerks of Election.
 D—Voting booths, not less than three feet square. See Section 14.
 E—Guard rail (six feet distant from either voting booth or Inspectors of Election).
 S S S—Inspectors of Election.
 P P—Ballot Clerks.
 W W—Clerks of Election.
 X X X—Challengers (in plain view of the election officers and booths).
 N—Entrance through guard-rail.

Elections.

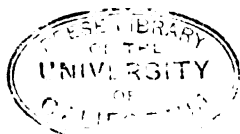
the being present.
in Senate and

enal Code, corre-
o read as follows,

NOCHISE.
tions.

a supplies, poll-lists

tion and official bal.



try.
attendance at polls

vice of United States.

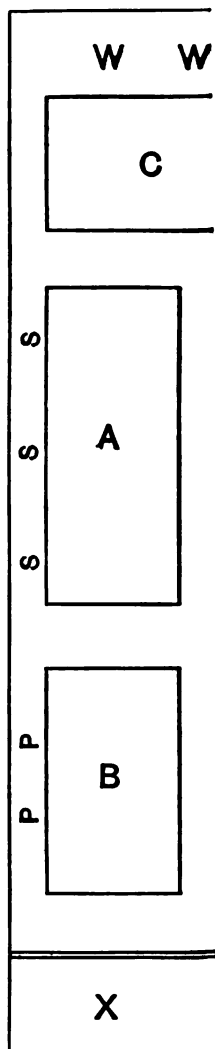
es.
ote.
boards to procure

tions. —Any person
convention without
ectly or indirectly,
vote at such caucus
vents him from vot-

affect the result of

lly omits, refuses or
efuses to permit any
mpts to make any

DIAGRAM OF ROOM
LOCATION OF FIFTY
FIFTY VOTERS,



No. 930

OFFICIAL BALLOT. FOR
ELECTION DISTRICT
NO. 2, FARMINGTON,
NOVEMBER 5, 1895.

County Clerk.

- A—Table, Inspector
B—Table, Ballot Clerk
C—Table, Clerks of Election
D—Voting booths, 1
E—Guard rail (six)
S S—Inspectors of Election
P P—Ballot Clerks.
W W—Clerks of Election
X X X—Challengers (in
N—Entrance through

Penal Provisions Relating to Elections.

CHAP. 693.

AN ACT to amend the Penal Code.

APPROVED by the Governor May 19, 1892. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The several parts and sections of the Penal Code, corresponding to those hereinafter specified, are amended to read as follows, to take effect immediately:

TITLE V.

OF CRIMES AGAINST THE ELECTIVE FRANCHISE.

- SECTION 41.** Misdemeanors at political caucuses and conventions.
- 41a. False registration.
 - 41b. Mutilation, destruction or loss of registry list.
 - 41c. Misconduct of registry officers.
 - 41d. Failure of house dweller to answer inquiries.
 - 41e. Removal, mutilation or destruction of election supplies, poll-lists or cards of instruction.
 - 41f. Refusal to permit employes to attend election.
 - 41g. Misconduct in relation to certificates of nomination and official ballots.
 - 41h. Failure to deliver official ballots.
 - 41i. Misconduct of election officers and watchers.
 - 41j. Violation of election law by public officer.
 - 41k. Misdemeanors in relation to elections.
 - 41l. Voting after conviction of infamous crime.
 - 41m. Voting by inhabitant of another state or country.
 - 41n. False returns.
 - 41o. Furnishing money or entertainment to induce attendance at polls.
 - 41p. Giving considerations for franchise.
 - 41q. Receiving consideration for franchise.
 - 41r. Testimony upon prosecution.
 - 41s. Bribery or intimidation of elector in military service of United States.
 - 41t. Duress and intimidation* of voters.
 - 41u. Political assessments.
 - 41v. Same.
 - 41w. Corrupt use of position or authority.
 - 41x. Failure to file candidate's statement of expenses.
 - 41y. Procuring fraudulent certificates in order to vote.
 - 41y. Presenting fraudulent certificates to registry boards to procure registration.
 - 41z.

§ 41. Misdemeanor at political caucuses and conventions.—Any person who,

1. Votes or attempts to vote at a political caucus or convention without being entitled to do so; or,
2. By bribery, menace or other corrupt means, directly or indirectly, attempts to influence the vote of any person entitled to vote at such caucus, convention, or obstructs such person in voting, or prevents him from voting thereat; or,
3. Fraudulently or wrongfully does any act tending to affect the result of an election at such caucus or convention; or,
4. Being an officer, teller or canvasser thereof, willfully omits, refuses or neglects to do any act required by the election law, or refuses to permit any person to do any act authorized thereby, or makes or attempts to make any

false canvass of the ballots cast at such caucus or convention or statement of the result of a canvass of the ballots casts thereat; or,

5. Induces or attempts to induce any officer, teller or canvasser of such caucus or convention to do any act in violation of his duty; or,

6. Directly or indirectly, by himself or through any other person, pays, or offers to pay, money or other valuable thing to any person to induce any voter or voters to vote or refrain from voting at such caucus or convention for any particular person or persons; or,

7. Directly or indirectly, by himself or through any other person, receives money or other valuable thing before, at or after such caucus or convention for voting or refraining from voting for or against any person at such caucus or convention, is guilty of a misdemeanor, punishable by imprisonment for not more than one year.

Am'd by chap. 721 of 1895. To take effect September 1, 1895.

§ 41a. **False registration.**—Any person who causes his name to be placed upon any list or register of voters in more than one election district for the same election, or upon a list or register of voters, knowing that he will not be a qualified voter in the district at the election for which such list or register is made, or aids or abets any such act, is punishable by imprisonment for not more than five years.

§ 41b. **Mutilation, destruction or loss of registry list.**—Any person who willfully loses, destroys or mutilates the list or register of voters in any election district, or a certified copy thereof, after the making the same and before the closing of the polls of the election for which the same is made, is guilty of a misdemeanor.

§ 41c. **Misconduct of registry officers.**—Any member or clerk of a registry board who willfully violates any provision of the election law relative to registration of electors or willfully neglects or refuses to perform any duty imposed on him by law, or is guilty of any fraud in the execution of the duties of his office, shall be punishable by imprisonment for not less than two and not more than ten years.

Am'd by chap. 492 of 1893. In effect October 1, 1893.

The provision of § 29 of the Penal Code applies to the provision of this section which declares that any member of a registry board who willfully violates any provision of the Election Law relative to the registration of electors shall be punishable by imprisonment, etc. *People v. McKane*, 143 N. Y. 455; affirming 80 Hun, 322. A person who though not a member of a board of registry, induces or procures its members willfully to violate a provision of § 33 of the Election Law in refusing or neglecting to keep the registers and copies at all reasonable hours accessible to the public for examination or making copies thereof, is guilty of a crime and may be indicted as a principal jointly with the members of the board. *Id.*

§ 41d. **Failure of house-dweller to answer inquiries.**—Any person dwelling in a building in a city who willfully refuses to truly answer any question asked by any elector of such city, between the first meeting of the boards of registry therein for any election and the closing of the polls at such election, relating to the residence and qualifications as a voter of any person dwelling in such building, or of any person who appears upon the list or register of voters made by a board of registry as residing at such building, is guilty of a misdemeanor.

§ 41e. **Removal, mutilation or destruction of election booths, supplies, poll-lists or cards of instruction.**—Any person who:

1. During an election or town meeting, willfully defaces or injures a voting booth or compartment, or willfully removes or destroys any of the supplies or other conveniences placed in the voting booths or compartments in pursuance of law; or,

2. Before the closing of the polls, willfully defaces or destroys any list of candidates to be voted for at such election or town meeting, posted in accordance with the election law; or,

3. During an election or town meeting, willfully removes or defaces the cards for the instruction of voters, posted in accordance with the election law, is guilty of a misdemeanor.

Am'd by chap. 714 of 1894. Took effect May 19, 1894.

§ 41f. **Refusal to permit employes to attend election.**—A person or corporation who refuses to an employe entitled to vote at an election or town meeting, the privilege of attending thereat, as provided by the election law, or subjects such employe to a penalty or reduction of wages because of the exercise of such privilege, is guilty of a misdemeanor.

§ 41g. **Misconduct in relation to certificates of nomination, and official ballots.**—A person who,

1. Falsely makes or makes oath to, or fraudulently defaces or destroys, a certificate of nomination or any part thereof; or

2. Files or receives for filing a certificate of nomination knowing that any part thereof was falsely made ; or

3. Suppresses a certificate of nomination which has been duly filed, or any part thereof ; or

4. Forges or falsely makes the official indorsement of any ballot ; or

5. Having charge of official ballots, destroys, conceals or suppresses them, except as provided by law,

Is punishable by imprisonment for not less than one nor more than five years.

§ 41h. **Failure to deliver official ballots.**—Any person who has undertaken to deliver official ballots to any city, town or village clerk, or inspector, as authorized by the election law, and neglects or refuses to do so, is guilty of a misdemeanor.

§ 41i. **Misconduct of election officers and watchers.**—Any election officer or watcher who :

1. Reveals to another person the name of any candidate for whom a voter has voted ; or,

2. Communicates to another person his opinion, belief or impression as to how or for whom a voter has voted ; or,

3. Places a mark upon a ballot, or does any other act by which one ballot can be distinguished from another, or can be identified ; or,

4. Before the closing of the polls, unfolds a ballot which a voter has prepared for voting, is punishable by imprisonment for not less than six months nor more than one year.

Am'd by chap. 714 of 1894. Took effect May 19, 1894.

§ 41j. **Violation of election law by public officer.**—A public officer who omits, refuses or neglects to perform any act required of him by the election law, or refuses to permit the doing of any act authorized thereby, is, if not otherwise provided by law, punishable by imprisonment for not more than three years, or by a fine of not more than three thousand dollars, or both.

§ 41k. **Misdemeanors in relation to elections.**—Any person who :

1. Acts as an inspector of election, poll clerk or ballot clerk, without being able to read and write the English language, or without being otherwise qualified to hold such office ; or,

2. Being an inspector of election, knowingly and willfully permits or suffers any person to vote who is not entitled to vote thereat ; or,

3. Willfully and unlawfully obstructs, hinders or delays, or aids or assists in obstructing or delaying any elector on his way to a registration or polling place, or while he is attempting to register or vote ; or,

4. Electioneers on election day within a polling place, or in a public street, or in a building or room, unless such building or room has been maintained for such purpose for at least six months previous to said election day, or in any public manner within one hundred feet of a polling place ; or displays any political poster or placard, except those lawfully provided, in or upon any building used for registration or election purposes during any day for registration or election ; or,

Amended by chap. 549 of 1896. In effect May 12, 1896.

5. Removes any official ballot from a polling place before the closing of the polls ; or,

6. Unlawfully goes within the guard-rail of any polling place or unlawfully remains within such guard-rail after having been commanded to remove therefrom by any inspector of election ; or,

7. Enters a voting booth with any voter or remains in a voting booth while it is occupied by any voter, or opens the door of a voting booth when the same is occupied by a voter, with the intent to watch such voter while engaged in the preparation of his ballot, except as authorized by the election law ; or,

8. Being or claiming to be a voter, permits any other person to be in a voting booth with him while engaged in the preparation of his ballot, except as authorized by the election law, without openly protesting against and asking that such person be ejected; or,

9. Having lawfully entered a voting booth with a voter, requests, persuades or induces such voter to vote any particular ballot or for any particular candidate, or, directly or indirectly, reveals to another the name of any candidate voted for by such voter, or anything occurring within such voting booth; or,

10. Shows his ballot after it is prepared for voting, to any person so as to reveal the contents, or solicits a voter to show the same; or,

11. Places any mark upon his ballot, or does any other act in connection with his ballot with the intent that it may be identified as the one voted by him; or,

12. Places any mark upon, or does any other act in connection with a ballot or paster ballot, with the intent that it may afterward be identified as having been voted by any particular person; or,

13. Receives an official ballot from any person other than one of the ballot clerks having charge of the ballots; or,

14. Not being a ballot clerk, delivers an official ballot to a voter; or,

15. Not being an inspector of election, receives from any voter a ballot prepared for voting; or,

16. Fails to return to the ballot clerks, before leaving the polling place or going outside the guard-rail, each ballot not voted by him; or,

17. Willfully disobeys any lawful command of the board of inspectors, or any member thereof, is guilty of a misdemeanor. This section shall apply to general and special elections, municipal elections and town meetings, but nothing therein shall prevent any person from receiving or delivering an unofficial sample ballot, or from receiving, delivering and voting an unofficial ballot as authorized by the election law.

Am'd by chap. 714 of 1894. Took effect May 19, 1894.

§ 411. **Voting after conviction of infamous crime.**—Any person who has been convicted of an infamous crime and has been sentenced or committed therefor to a state prison or penitentiary, who votes at any election unless he shall have been pardoned and restored to all the rights of a citizen, is guilty of a misdemeanor.

§ 41m. **Illegal voting.**—Any person who,

1. Knowingly votes or offers to vote at any election or town meeting, when not qualified; or,

2. Procures, aids, assists, counsels or advises any person to go or come into any town, ward or election district, for the purpose of voting at any election or town meeting, knowing that such person is not qualified; or,

3. Votes or offers to vote at an election or town meeting more than once; or votes or offers to vote at an election or town meeting under any other name than his own; or votes or offers to vote at an election or town meeting in an election district or place where he does not reside; or,

4. Procures, aids, assists, commands or advises another to vote or offer to vote at an election or town meeting, knowing that such person is not qualified to vote thereat; or,

5. Being an inhabitant of another state or country, votes or offers to vote at an election or town meeting in this state, is guilty of felony, punishable by imprisonment in a state prison not less than two, nor more than five years.

Am'd by chaps. 77 and 282 of 1894. Took effect Sept. 1, 1894.

§ 41n. **False returns.**—An inspector or poll clerk of an election or town meeting, who intentionally makes, or attempts to make, a false canvass of the ballots cast thereat, or any false statement of the result of a canvass, though not signed by a majority of the inspectors, or any person who induces or attempts to induce any such inspector or clerk so to do, is guilty of a felony.

§ 41o. **Furnishing money or entertainment to induce attendance at polls.**—Any person who, with the intent to promote the election of a person to an elective office:

1. Furnishes entertainment to the electors before or during an election or town meeting at which such person is a candidate; or,

2. Pays for, procures or engages to pay for such entertainment; or,

3. Furnishes money or other property, or engages to compensate any person for procuring the attendance of voters at the polls of such election or town meeting; or,

4. Contributes money for any other purpose than the printing and circulating of hand bills, books and other papers previous to an election or town meeting, or conveying electors to the polls, or music, or rent of halls, is guilty of a misdemeanor. Am'd by ch. 885, of 1895. To take effect September 1, 1895.

§ 41p. **Giving consideration for franchise.**—Any person who directly or indirectly, by himself or through any other person:

1. Pays, lends or contributes, or offers or promises to pay, lend or contribute any money or other valuable consideration to or for any voter, or to or for any

other person, to induce such voter to vote or refrain from voting at any election, or to induce any voter to vote or refrain from voting at such election, for any particular person or persons, or for or against any particular proposition submitted to voters, or to induce such voter to come to the polls or remain away from the polls at such election, or to induce such voter to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters, or on account of such voter having voted or refrained from voting or having voted or refrained from voting for or against any particular person or for or against any proposition submitted to voters or having come to the polls or remained away from the polls at such election, or having placed or caused to be placed or refrained from placing or causing to be placed his name upon the registry of voters; or,

2. Gives, offers or promises any office, place or employment, or promises to procure or endeavor to procure any office, place or employment to or for any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting at any election, or to induce any voter to vote or refrain from voting at such election, for or against any particular person or persons, or for or against any proposition submitted to voters, or to induce any voter to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters; or,

3. Gives, offers or promises any office, place, employment or valuable thing as an inducement for any voter or other person to procure or aid in procuring either a large or a small vote, plurality or majority at any election district, or other political division of the state, for a candidate or candidates to be voted for at an election; or to cause a larger or smaller vote, plurality or majority to be cast or given for any candidate or candidates in one such district or political division than in another; or,

4. Makes any gift, loan, promise, offer, procurement or agreement as aforesaid to, for or with any person to induce such person to procure or endeavor to procure the election of any person or the vote of any voter at any election; or,

5. Procures or engages, or promises or endeavors to procure, in consequence of any such gift, loan, offer, promise, procurement or agreement, the election of any person, or the vote of any voter, at such election; or,

6. Advances or pays or causes to be paid, any money or other valuable thing, to or for the use of any other person with the intent that the same, or any part thereof, shall be used in bribery at any election, or knowingly pays or causes to be paid any money or other valuable thing to any person in discharge or repayment of any money, wholly or in part expended in bribery at any election, is guilty of an infamous crime punishable by imprisonment for not less than three months nor more than one year, and in addition forfeits any office to which he may have been elected at the election with reference to which such offense was committed, and becomes incapable of holding any public office under the constitution and laws of this state for a period of five years after such conviction.

Am'd by chap. 714 of 1894. Took effect May 19, 1894.

§ 41q. **Receiving consideration for franchise.**—Any person who, directly or indirectly, by himself or through any other person:

1. Receives, agrees or contracts for, before or during an election, any money, gift, loan or other valuable consideration, office, place or employment for himself or any other person, for voting or agreeing to vote, or for coming or agreeing to come to the polls, or for remaining away or agreeing to remain away from the polls, or for refraining or agreeing to refrain from registering as a voter, or for refraining or agreeing to refrain from voting, or for voting or agreeing to vote, or for refraining or agreeing to refrain from voting for or against any particular person or persons at any election, or for or against any proposition submitted to voters at such election; or,

2. Receives any money or other valuable thing during or after an election on account of himself or any other person having voted or refrained from voting at such an election, or having registered or refrained from registering as a voter, or on account of himself or any other person having voted or refrained from voting for or against any particular person at such election, or for or against any proposition submitted to voters at such election, or on account of himself or any other person having come to the polls or remained away from the polls at such election, or having registered or refrained from registering as a voter, or on account of having induced any other person to vote or refrain from voting for or against any particular person or persons at such election, or for or against any proposition submitted to voters at such election, is guilty of an infamous crime, punishable by imprisonment for not less than three months, nor more than one year, and in addition shall be excluded from the right of suffrage for five years after such conviction; and the county clerk of the county in which such person is convicted shall transmit a certified copy of the record of conviction to the clerk of each county of the state, within ten days thereafter, which copy shall be filed in his office by each of said clerks.

Am'd by chap. 714 of 1894. Took effect May 19, 1894.

§ 41r. **Testimony upon prosecution.**—A person offending against any provision of section forty-one-p or of section forty-one-q. of this code is a competent witness

against another person so offending and may be compelled to attend and testify on any trial, hearing or proceeding, or investigation in the same manner as any other person. The testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person testifying. A person testifying shall not thereafter be liable to indictment, prosecution or punishment for the offense with reference to which his testimony was given, and may plead or prove the giving of testimony accordingly, in bar of such an indictment or prosecution.

Am'd by chap. 692 of 1893. In effect October 1, 1893.

§ 41s. Bribery or intimidation of elector in military service of United States.—Any person who, directly or indirectly, by bribery, menace or other corrupt means, controls or attempts to control an elector of this state enlisted in the military service of the United States, in the exercise of his rights under the election law, or annoys, injures or punishes him for the manner in which he exercises such right, is guilty of a misdemeanor for which he may be tried at any future time when he may be found within this state; and upon conviction thereof shall thereafter be ineligible to any office therein.

§ 41t. Duress and intimidation of voters.—Any person or corporation who directly or indirectly:

1. Uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting at any election or to vote or refrain from voting for or against any particular person or persons or for or against any proposition submitted to voters at such election, or to place or cause to be placed or refrain from placing or causing to be placed, his name upon a registry of voters, or on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons, or for or against any proposition submitted to voters at such election, or having registered or refrained from registering as a voter; or,

2. By abduction, duress or any forcible or fraudulent device or contrivance whatever impedes, prevents or otherwise interferes with the free exercise of the elective franchise by any voter, or compels, induces or prevails upon any voter to give or refrain from giving his vote for or against any particular person at any election; or,

3. Being an employer pays his employes the salary or wages due in "pay envelopes," upon which there is written or printed any political motto, device or argument containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employes, or within ninety days of a general election puts or otherwise exhibits in the establishment or place where his employes are engaged in labor, any hand bill or placard containing any threat, notice or information that if any particular ticket or candidate is elected or defeated, work in his place or establishment will cease, in whole or in part, his establishment be closed up, or the wages of his employes reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his employes, is guilty of a misdemeanor, and if a corporation shall in addition forfeit its charter.

Am'd by chap. 714 of 1894. Took effect May 19, 1894.

The said title is hereby amended by inserting therein a new section to be known as section forty-one-u, which shall read as follows:

§ 41u. Political assessments.—Any two or more persons who conspire to promote or prevent the election of any person or persons to a public office by the use of any means which are prohibited by law, shall be punishable by imprisonment for not less than six months nor more than one year; provided, any act besides such agreement be done to effect the object thereof by one or more of the parties to such conspiracy.

§ 41v. Same.—Any person who:

1. Being an officer or employe of the state, or of a political subdivision thereof, directly or indirectly uses his authority or official influence to compel or induce any other officer or employe of the state or a political subdivision thereof, to pay or promise to pay any political assessments; or

2. Being an officer or employe of the state, or of a political subdivision thereof, directly or indirectly, gives, pays or hands over to any other such officer or employe any money or other valuable thing on account of or to be applied to the promotion of his election, appointment or retention in office, or makes any promise, or gives any sub-

scription to such officer or employe to pay or contribute any money or other valuable thing for any such purpose or object ; or

3 Being such an officer or employe and having charge or control of any building, office or room occupied for any purpose of the state or of a political subdivision thereof, consents that any person enter the same for the purpose of making, collecting, receiving or giving notice of any political assessment ; or

4. Enters or remains in any such office, building or room, or sends or directs any letter or other writing thereto, for the purpose of giving notice of demanding or collecting, or being therein, gives notice of, demands, collects or receives, any political assessment ;

5. Prepares or makes out, or takes any part in preparing or making out, any political assessment, subscription or contribution, with the intent that the same shall be sent or presented to or collected of any such officer or employe ; or

6. Sends or presents any political assessment, subscription, or contribution to, or requests its payment of, any such officer or employe, is guilty of a misdemeanor.

§ 41w. Corrupt use of position or authority.—Any person who,

1. While holding a public office, or being nominated or seeking a nomination or appointment therefor, corruptly uses or promises to use, directly or indirectly, any official authority or influence possessed or anticipated, in the way of conferring upon any person, or in order to secure, or aid any person in securing, any office or public employment, or any nomination, confirmation, promotion or increase of salary, upon consideration that the vote or political influence or action of the person so to be benefited or of any other person, shall be given or used in behalf of any candidate, officer or party or upon any other corrupt condition or consideration ; or

2. Being a public officer or employe of the state or a political subdivision having, or claiming to have, any authority or influence affecting the nomination, public employment, confirmation, promotion, removal, or increase or decrease of salary of any public officer or employe, or promises or threatens to use, any such authority or influence, directly or indirectly to affect the vote or political action of any such public officer or employe, or on account of the vote or political action of such officer or employe ; or

3. Makes, tenders or offers to procure, or cause any nomination or appointment for any public office or place, or accepts or requests any such nomination or appointment, upon the payment or contribution of any valuable consideration, or upon an understanding or promise thereof, or

4 Makes any gift, promise or contribution to any person, upon the condition or consideration of receiving an appointment or election to a public office or a position of public employment, or for receiving or retaining any such office or position, or promotion, privilege, increase of salary or compensation therein, or exemption from removal or discharge therefrom, is punishable by imprisonment for not more than two years or by a fine of not more than three thousand dollars or both.

§ 41x. Failure to file candidate's statement of expenses.—Every candidate who is voted for at any public election held within this state shall, within ten days after such election, file as hereinafter provided an itemized statement showing in detail all the moneys contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. Such statement

shall give the names of the various persons who received such moneys, the specific nature of each item, and the purpose for which it was expended or contributed. There shall be attached to such statement an affidavit subscribed and sworn to by such candidate, setting forth in substance that the statement thus made is in all respects true, and that the same is a full and detailed statement of all moneys so contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. Candidates for offices to be filled by the electors of the entire state, or any division or district thereof greater than a county, shall file their statements in the office of secretary of state. The candidates for town, village and city offices, excepting in the city of New York shall file their statements in the office of the town, village or city clerk, respectively, and in cities wherein there is no city clerk, with the clerk of the common council of the city wherein the election occurs. Candidates for all other offices, including all officers in the city and county of New York, shall file their statements in the office of the clerk of the county wherein the election occurs. Any candidate for office who refuses or neglects to file a statement as prescribed in this section shall be guilty of a misdemeanor, and shall also forfeit his office.

§ 41x. **Procuring fraudulent certificates in order to vote.**—Any person who knowingly and willfully procures from any court, judge, clerk or other officer, a certificate of naturalization, which has been allowed, issued, signed or sealed in violation of the laws of the United States or of this state, with intent to enable himself or any other person to vote at any election when he or such person is not entitled by the laws of the United States to become a citizen or to exercise the elective franchise, is guilty of a felony.

Added by chap. 692 of 1893. In effect October 1, 1893.

§ 41y. **Presenting fraudulent certificates to registry boards to procure registration.**—A person who knowingly and willfully presents to any board of officers, for the purpose of having himself or any other person placed upon any list or registry of voters, or to any board of officers for the purpose of enabling himself or any other person to vote at any election, any certificate of naturalization which has been allowed or issued by or procured from any judicial officer, clerk of a court, or other ministerial officer of a court, by any false statement, oath or representation, or in violation of the laws of the United States or of this State, with intent to enable any person to vote at any election, when such person is not entitled to the laws of the United States to become a citizen, or of this state, to exercise the elective franchise, is guilty of a felony.

Added by chap. 692 of 1893. In effect October 1, 1893.

§ 41z. Any person who solicits from a candidate for an elective office money or other property, or who seeks to induce such candidate who has been placed in nomination to purchase any ticket, card or other evidence of admission to any ball, picnic, fair or entertainment of any kind, is guilty of a misdemeanor; but this section shall not apply to a request for a contribution of money by an authorized representative of the political party, organization or association to which such candidate belongs. Added by ch. 155, of 1895. To take effect September 1, 1895.

Congressional Apportionment Law.

CHAP. 295.

AN ACT dividing the state into congressional districts.

APPROVED by the Governor April 13, 1892. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. For the election of representatives in congress of the United States this state shall be and is hereby divided into thirty-four districts, namely:

FIRST DISTRICT.—The counties of Suffolk and Queens shall compose the first district.

SECOND DISTRICT.—The first, second, fifth, sixth, seventh, eleventh and twentieth wards of the city of Brooklyn, as now constituted, shall compose the second district.

THIRD DISTRICT.—The fourth, third, tenth, twenty-second, ninth and twenty-third wards of the city of Brooklyn, as now constituted, together with the town of Flatbush, shall compose the third district.

FOURTH DISTRICT.—The twelfth, eighth, twenty-fourth, twenty-fifth and twenty-sixth wards of the city of Brooklyn, as now constituted, together with the towns of New Utrecht, Gravesend and Flatlands, shall compose the fourth district

Congressional districts.

FIFTH DISTRICT.—The eighteenth, nineteenth, twenty-first, twenty-seventh and twenty-eighth wards of the city of Brooklyn, as now constituted, shall compose the fifth district.

SIXTH DISTRICT.—The thirteenth, fourteenth, fifteenth, sixteenth and seventeenth wards of the city of Brooklyn, as now constituted, shall compose the sixth district.

SEVENTH DISTRICT.—The county of Richmond, together with the first and fifth assembly districts of the county of New York, shall compose the seventh district.

EIGHTH DISTRICT.—The second, third and seventh assembly districts of the county of New York shall compose the eighth district.

NINTH DISTRICT.—The fourth, sixth and eighth assembly districts of the county of New York shall compose the ninth district.

TENTH DISTRICT.—The ninth, thirteenth and fifteenth assembly districts of the county of New York shall compose the tenth district.

ELEVENTH DISTRICT.—The tenth, twelfth and fourteenth assembly districts of the county of New York shall compose the eleventh district.

TWELFTH DISTRICT.—The eleventh, sixteenth and eighteenth assembly districts of the county New York shall compose the twelfth district.

THIRTEENTH DISTRICT.—The seventeenth and twentieth assembly district of the county of New York, and that portion of the twenty-first assembly district below the center of Fifty-ninth street in the city of New York, shall compose the thirteenth district.

FOURTEENTH DISTRICT.—The nineteenth assembly district of the county of New York, that portion of the twenty-first assembly district between the center of Fifty-ninth street and the center of Seventy-ninth street, and that portion of the twenty-second assembly district below the center of Seventy-ninth street in the city of New York shall compose the fourteenth district.

FIFTEENTH DISTRICT.—That portion of the twenty-first assembly district between the center of Seventy-ninth street and the center of Eighty-sixth street; that portion of the twenty-second district above the center of Seventy-ninth street of the city of New York, and the twenty-third assembly district of the county of New York, shall compose the fifteenth district.

SIXTEENTH DISTRICT.—The twenty-fourth assembly district of the county of New York and the county of Westchester, shall compose the sixteenth district.

SEVENTEENTH DISTRICT.—The counties of Rockland, Orange and Sullivan shall compose the seventeenth district.

EIGHTEENTH DISTRICT.—The counties of Putnam, Dutchess and Ulster shall compose the eighteenth district.

NINETEENTH DISTRICT.—The counties of Columbia and Rensselaer shall compose the nineteenth district.

TWENTIETH DISTRICT.—The county of Albany shall compose the twentieth district.

TWENTY-FIRST DISTRICT.—The counties of Greene, Schoharie, Otsego, Montgomery and Schenectady, shall compose the twenty-first district.

TWENTY-SECOND DISTRICT.—The counties of Fulton and Hamilton, Saratoga and Saint Lawrence shall compose the twenty-second district.

TWENTY-THIRD DISTRICT.—The counties of Clinton Franklin, Essex, Warren and Washington, shall compose the twenty-third district.

TWENTY-FOURTH DISTRICT.—The counties of Oswego, Jefferson and Lewis, shall compose the twenty-fourth district

TWENTY-FIFTH DISTRICT.—The counties of Oneida and Herkimer, shall compose the twenty-fifth district.

TWENTY-SIXTH DISTRICT.—The counties of Delaware, Chenango, Broome, Tioga and Tompkins, shall compose the twenty-sixth district.

TWENTY-SEVENTH DISTRICT.—The counties of Onondaga and Madison, shall compose the twenty-seventh district.

TWENTY-EIGHTH DISTRICT.—The counties of Wayne, Cayuga, Cortland, Ontario and Yates, shall compose the twenty-eighth district.

TWENTY-NINTH DISTRICT.—The counties of Chemung, Seneca, Schuyler and Steuben, shall compose the twenty-ninth district.

THIRTIETH DISTRICT.—The counties of Niagara, Livingston, Wyoming, Genesee and Orleans shall compose the thirtieth district.

THIRTY-FIRST DISTRICT.—The county of Monroe shall compose the thirty-first district.

THIRTY-SECOND DISTRICT.—The first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, nineteenth and twentieth wards of the city of Buffalo, as now constituted, shall compose the thirty-second district.

THIRTY-THIRD DISTRICT.—The fifteenth, sixteenth, seventeenth, eighteenth, twenty-first, twenty-second, twenty-third, twenty-fourth and twenty-fifth wards of the city of Buffalo, as now constituted, and the fourth and fifth assembly districts of the county of Erie, which said fourth assembly district includes the said twenty-fifth ward of the city of Buffalo, shall compose the thirty-third district.

THIRTY-FOURTH DISTRICT.—The counties of Chautauqua, Cattaraugus and Allegany, shall compose the thirty-fourth district.

§ 2. The words "assembly district," when used in this act, refer to assembly districts as at present constituted. Whenever the word "ward" or "wards" is used in this act it shall be understood to refer to the ward or wards as constituted at the time of the passage of this act.

CONSTITUTIONAL PROVISIONS APPLICABLE.

ARTICLE II.

§ 1. Every male citizen of the age of twenty-one years, who shall have been a citizen for *ninety* days, and an inhabitant of this State one year next preceding an election, and for the last four months a resident of the county, and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people, and upon all questions which may be submitted to the vote of the people; provided that in time of war no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.*

§ 2. No person who shall receive, accept, or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or with,

* See section 34, subd. 2 of Election Law.

holding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm, before such officers that he has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The Legislature shall enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime.

Amended by Convention of 1894, and ratified Nov. 6, 1894.

§ 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any alms-house or other asylum, *or institution wholly or partly supported at public expense or by charity* nor while confined in any public prison.

New matter in Italics.

Amended by Convention of 1894, and ratified Nov. 6, 1894.

Soldiers' Home at Bath is an "asylum." *Silvey v. Lindsay*, 107 N. Y. 55.

§ 4. Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established, *and for the registration of voters; which registration shall be completed at least ten days before each election. Such registration shall not be required for town and village elections except by express provision of law. In cities and villages having five thousand inhabitants or more, according to the last preceding State enumeration of inhabitants, voters shall be registered upon personal application only; but voters not residing in such cities or villages shall not be required to apply in person for registration at the first meeting of the officers having charge of the registry of voters.*

New matter in Italics.

Amended by Convention of 1894, and ratified Nov. 6, 1894.

§ 5. All elections by the citizens, except for such town officers as may by law be directed to be otherwise chosen, shall be by ballot, or

by such other method as may be prescribed by law, provided that secrecy in voting be preserved.

New matter in Italics.

Amended by Convention of 1894, and ratified Nov. 6, 1894.

§ 6. All laws creating, regulating or affecting boards or officers charged with the duty of registering voters, or of distributing ballots at the polls to voters, or of receiving, recording or counting votes at elections, shall secure equal representation of the two political parties, which at the general election next preceding that for which such boards or officers are to serve, cast the highest and the next highest number of votes. All such boards and officers shall be appointed or elected in such manner, and upon the nomination of such representatives of said parties respectively, as the Legislature may direct. Existing laws on this subject shall continue until the Legislature shall otherwise provide. This section shall not apply to town meetings, or to village elections.

(New.)

Amendment of Convention of 1894 and ratified Nov. 6, 1894.

ARTICLE III.

§ 3. The State shall be divided into fifty districts, to be called senate districts, each of which shall choose one senator. The districts shall be numbered from one to fifty, inclusive.

District number one (1) shall consist of the counties of Suffolk and Richmond.

District number two (2) shall consist of the county of Queens.

District number three (3) shall consist of that part of the county of Kings comprising the first, second, third, fourth, fifth and sixth wards of the city of Brooklyn.

District number four (4) shall consist of that part of the county of Kings comprising the seventh, thirteenth, nineteenth and twenty-first wards of the city of Brooklyn.

District number five (5) shall consist of that part of the county of Kings comprising the eighth, tenth, twelfth and thirtieth wards of the city of Brooklyn, and the ward of the city of Brooklyn which was formerly the town of Gravesend.

District number (6) shall consist of that part of the county of Kings comprising the ninth, eleventh, twentieth and twenty-second wards of the city of Brooklyn.

District number seven (7) shall consist of that part of the county of Kings comprising the fourteenth, fifteenth, sixteenth and seventeenth wards of the city of Brooklyn.

District number eight (8) shall consist of that part of the county of Kings comprising the twenty-third, twenty-fourth, twenty-fifth and twenty-ninth wards of the city of Brooklyn, and the town of Flatlands.

District number nine (9) shall consist of that part of the county of Kings comprising the eighteenth, twenty-sixth, twenty-seventh and twenty-eighth wards of the city of Brooklyn

District number ten (10) shall consist of that part of the county of New York within and bounded by a line beginning at Canal street and the Hudson river, and running thence along Canal street, Hudson street, Dominick street, Varick street, Broome street, Sullivan street, Spring street, Broadway, Canal street, the Bowery, Division street, Grand street and Jackson street to the East river, and thence around the southern end of Manhattan Island to the place of beginning, and also Governor's, Bellow's and Ellis islands.

District number eleven (11) shall consist of that part of the county of New York lying north of district number ten, and within and bounded by a line beginning at the junction of Broadway and Canal street, and running thence along Broadway, Fourth street, the Bowery and Third avenue, St. Mark's place, Avenue A, Seventh street, Avenue B, Clinton street, Rivington street, Norfolk street, Division street, Bowery and Canal street, to the place of beginning.

District number twelve (12) shall consist of that part of the county of New York lying north of districts numbers ten and eleven, and within and bounded by a line beginning at Jackson street and the East river, and running thence through Jackson street, Grand street, Division street, Norfolk street, Rivington street, Clinton street, Avenue B, Seventh street, Avenue A, St. Mark's place, Third avenue, East Fourteenth street to the East river, and along the East river to the place of beginning.

District number thirteen (13) shall consist of that part of the county of New York lying north of district number ten, and within and bounded by a line beginning at the Hudson river at the foot of Canal street, and running thence along Canal street, Hudson street, Dominick street, Varick street, Broome street, Sullivan street, Spring street, Broadway, Fourth street, the Bowery and Third avenue, Fourteenth street, Sixth avenue, West Fifteenth street, Seventh avenue, West Nineteenth street, Eighth avenue, West Twentieth street and the Hudson river to the place of beginning.

District number fourteen (14) shall consist of that part of the county of New York lying north of districts numbers twelve and thirteen, and within and bounded by a line beginning at East Fourteenth street and the East river, and running thence along East Fourteenth

street, Irving place, East Nineteenth street, Third avenue, East Twenty-third street, Lexington avenue, East Fifty-third street, Third avenue, East Fifty-second street, and the East river to the place of beginning.

District number fifteen (15) shall consist of that part of the county of New York lying north of district number thirteen, and within and bounded by a line beginning at the junction of West Fourteenth street and Sixth avenue, and running thence along Sixth avenue, West Fifteenth street, Seventh avenue, West Fortieth street, Eighth avenue, and the transverse road across Central park at Ninety-seventh street, Fifth avenue, East Ninety-sixth street, Lexington avenue, East Twenty-third street, Third avenue, East Nineteenth street, Irving place and Fourteenth street, to the place of beginning.

District number sixteen (16) shall consist of that part of the county of New York lying north of district number thirteen, and within and bounded by a line beginning at Seventh avenue and West Nineteenth street, and running thence along West Nineteenth street, Eighth avenue, West Twentieth street, the Hudson river, West Forty-sixth street, Tenth avenue, West Forty-third street, Eighth avenue, West Fortieth street and Seventh avenue, to the place of beginning.

District number seventeen (17) shall consist of that part of the county of New York lying north of district number sixteen, and within and bounded by a line beginning at the junction of Eighth avenue and West Forty-third street, and running thence along West Forty-third street, Tenth avenue, West Forty-sixth street, the Hudson river, West Eighty-ninth street, Tenth or Amsterdam avenue, West Eighty-sixth street, Ninth or Columbus avenue, West Eighty-first street and Eighth avenue, to the place of beginning.

District number eighteen (18) shall consist of that part of the county of New York lying north of district number fourteen, and within and bounded by a line beginning at the junction of East Fifty-second street and the East river, and running thence along East Fifty-second street, Third avenue, East Fifty-third street, Lexington avenue, East Eighty-fourth street, Second avenue, East Eighty-third street and the East river, to the place of beginning; and also Blackwell's island.

District number nineteen (19) shall consist of that part of the county of New York lying north of district number seventeen, and within and bounded by a line beginning at West Eighty-ninth street and the Hudson river, and running thence along the Hudson river and Spuyten Duyvil creek around the northern end of Manhattan island; thence southerly along the Harlem river to the north end of Fifth avenue; thence along Fifth avenue, East One Hundred and Twenty-ninth street, Fourth or Park avenue, East One Hundred and

Tenth street, Fifth avenue, the transverse road across Central Park at Ninety-seventh street, Eighth avenue, West Eighty-first street, Ninth or Columbus avenue, West Eighty-sixth street, Tenth or Amsterdam avenue and West Eighty-ninth street, to the place of beginning.

District number twenty (20) shall consist of that part of the county of New York lying north of districts numbers eighteen and fifteen, and within and bounded by a line beginning at East Eighty-third street and the East river, running thence through East Eighty-third street, Second avenue, East Eighty-fourth street, Lexington avenue, East Ninety-sixth street, Fifth avenue, East One Hundred and Tenth street, Fourth or Park avenue, East One Hundred and Nineteenth street to the Harlem river, and along the Harlem and East rivers to the place of beginning; and also Randall's island and Ward's island.

All of the above districts in the county of New York bounded upon or along the boundary waters of the county, shall be deemed to extend to the county line.

District number twenty-one (21) shall consist of that part of the county of New York lying north of districts numbers nineteen and twenty, within and bounded by a line beginning at East One Hundred and Nineteenth street and the Harlem river, and running thence along East One Hundred and Nineteenth street, Fourth or Park avenue, One Hundred and Twenty ninth street, Fifth avenue and the Harlem river, to the place of beginning; and all that part of the county of New York not hereinbefore described.

District number twenty-two (22) shall consist of the county of Westchester.

District number twenty-three (23) shall consist of the counties of Orange and Rockland.

District number twenty-four (24) shall consist of the counties of Dutchess, Columbia and Putnam.

District number twenty-five (25) shall consist of the counties of Ulster and Green.

District number twenty-six (26) shall consist of the counties of Delaware, Chenango and Sullivan.

District number twenty-seven (27) shall consist of the counties of Montgomery, Fulton, Hamilton and Schoharie.

District number twenty-eight (28) shall consist of the counties of Saratoga, Schenectady and Washington.

District number twenty-nine (29) shall consist of the county of Albany.

District number thirty (30) shall consist of the county of Rensselaer.

District number thirty-one (31) shall consist of the counties of Clinton, Essex and Warren.

District number thirty-two (32) shall consist of the counties of St. Lawrence and Franklin.

District number thirty-three (33) shall consist of the counties of Otsego and Herkimer.

District number thirty-four (34) shall consist of the county of Oneida.

District number thirty-five (35) shall consist of the counties of Jefferson and Lewis.

District number thirty-six (36) shall consist of the county of Onondaga.

District number thirty-seven (37) shall consist of the counties of Oswego and Madison.

District number thirty-eight (38) shall consist of the counties of Broome, Cortland and Tioga.

District number thirty-nine (39) shall consist of the counties of Cayuga and Seneca.

District number forty (40) shall consist of the counties of Chemung, Tompkins and Schuyler.

District number forty-one (41) shall consist of the counties of Steuben and Yates.

District number forty-two (42) shall consist of the counties of Ontario and Wayne.

District number forty-three (43) shall consist of that part of the county of Monroe comprising the towns of Brighton, Henrietta, Irondequoit, Mendon, Penfield, Perinton, Pittsford, Rush and Webster, and the fourth, sixth, seventh, eighth, twelfth, thirteenth, fourteenth, sixteenth, seventeenth and eighteenth wards of the city of Rochester, as at present constituted.

District number forty-four (44) shall consist of that part of the county of Monroe comprising the towns of Chili, Clarkson, Gates, Greece, Hamlin, Ogden, Parma, Riga, Sweden, and Wheatland, and the first, second, third, fifth, ninth, tenth, eleventh, fifteenth, nineteenth and twentieth wards of the city of Rochester, as at present constituted.

District number forty-five (45) shall consist of the counties of Niagara, Genesee and Orleans.

District number forty-six (46) shall consist of the counties of Allegany, Livingston and Wyoming.

District number forty-seven (47) shall consist of that part of the county of Erie comprising the first, second, third, sixth, fifteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third and

twenty-fourth wards of the city of Buffalo, as at present constituted.

District number forty-eight (48) shall consist of that part of the county of Erie comprising the fourth, fifth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth and sixteenth wards of the city of Buffalo, as at present constituted.

District number forty-nine (49) shall consist of that part of the county of Erie comprising the seventeenth, eighteenth and twenty-fifth wards of the city of Buffalo, as at present constituted; and all the remainder of the said county of Erie not hereinbefore described.

District number fifty (50) shall consist of the counties of Chautauqua and Cattaraugus.

(New.)

Amendment of Convention of 1894, ratified by people, Nov. 6, 1894.

§ 4. An enumeration of the inhabitants of the State shall be taken under the direction of the Secretary of State, during the months of May and June, in the year one thousand nine hundred and five, and in the same months every tenth year thereafter; and the said districts shall be so altered by the Legislature at the first regular session after the return of every enumeration, that each senate district shall contain as nearly as may be an equal number of inhabitants, excluding aliens, and be in as compact form as practicable, and shall remain unaltered until the return of another enumeration, and shall at all times, consist of contiguous territory, and no county shall be divided in the formation of a senate district except to make two or more senate districts wholly in such county. No town, and no block in a city inclosed by streets or public ways, shall be divided in the formation of senate districts; nor shall any district contain a greater excess in population over an adjoining district in the same county, than the population of a town or block therein, adjoining such district. Counties, towns or blocks which, from their location, may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens.

No county shall have four or more senators unless it shall have a full ratio for each senator. No county shall have more than one-third of all the senators; and no two counties of the territory thereof as now organized, which are adjoining counties, or which are separated only by public waters, shall have more than one-half of all the senators.

The ratio for apportioning senators shall always be obtained by dividing the number of inhabitants, excluding aliens, by fifty, and the Senate shall always be composed of fifty members, except that if any county having three or more senators at the time of any apportion-

ment shall be entitled on such ratio to an additional senator or senators, such additional senator or senators shall be given to such county in addition to the fifty senators, and the whole number of senators shall be increased to that extent.

(New.)

Amendment of Convention of 1894, ratified, Nov. 6, 1894.

§ 5. The members of the Assembly shall be chosen by single districts, and shall be apportioned by the Legislature at the first regular session after the return of every enumeration among the several counties of the State, as nearly as may be according to the number of their respective inhabitants, excluding aliens. Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of assembly, and no county shall hereafter be erected unless its population shall entitle it to a member. The county of Hamilton shall elect with the county of Fulton, until the population of the county of Hamilton shall, according to the ratio, entitle it to a member. But the Legislature may abolish the said county of Hamilton and annex the territory thereof to some other county or counties.

The quotient obtained by dividing the whole number of inhabitant of the State, excluding aliens, by the number of members of assembly, shall be the ratio for apportionment which shall be made as follows: One member of assembly shall be apportioned to every county, including Fulton and Hamilton as one county, containing less than the ratio and one-half over. Two members shall be apportioned to every other county. The remaining members of assembly shall be apportioned to the counties having more than two ratios according to the number of inhabitants, excluding aliens. Members apportioned on remainders shall be apportioned to the counties having the highest remainders in the order thereof respectively. No county shall have more members of assembly than a county having a greater number of inhabitants, excluding aliens.

Until after the next enumeration, members of the Assembly shall be apportioned to the several counties as follows: Albany county, four members; Allegany county, one member; Broome county, two members; Cattaraugus county, two members; Cayuga county, two members; Chautauqua county, two members; Chemung county, one member; Chenango county, one member; Clinton county, one member; Columbia county, one member; Cortland county, one member; Delaware county, one member; Dutchess county, two members; Erie county, eight members; Essex county, one member; Franklin county, one member; Fulton and Hamilton counties, one member; Genesee county, one member; Greene county, one member; Herkimer county

one member; Jefferson county, two members; Kings county, twenty-one members; Lewis county, one member; Livingston county, one member; Madison county, one member; Monroe county, four members; Montgomery county, one member; New York county, thirty-five members; Niagara county, two members; Oneida county, three members; Onondaga county, four members; Ontario county, one member; Orange county, two members; Orleans county, one member; Oswego county, two members; Otsego county, one member; Putnam county, one member; Queens county, three members; Rensselaer county, three members; Richmond county, one member; Rockland county, one member; St. Lawrence county, two members; Saratoga county, one member; Schenectady county, one member; Schoharie county, one member; Schuyler county, one member; Seneca county, one member; Steuben county, two members; Suffolk county, two members; Sullivan county, one member; Tioga county, one member; Tompkins county, one member; Ulster county, two members; Warren county, one member; Washington county, one member; Westchester county, three members; Wyoming county, one member, and Yates county, one member.

In any county entitled to more than one member, the board of supervisors, and in any city embracing an entire county and having no board of supervisors, the common council, or if there be none, the body exercising the powers of a common council, shall assemble on the second Tuesday in June, one thousand eight hundred and ninety-five, and at such times as the Legislature making an apportionment shall prescribe, and divide such counties into assembly districts as nearly equal in number of inhabitants, excluding aliens, as may be, of convenient and contiguous territory in as compact form as practicable, each of which shall be wholly within a senate district formed under the same apportionment, equal to the number of members of assembly to which such county shall be entitled, and shall cause to be filed in the office of the Secretary of State and of the clerk of such county, a description of such districts, specifying the number of each district and of the inhabitants thereof, excluding aliens, according to the last preceding enumeration; and such apportionment and districts shall remain unaltered until another enumeration shall be made, as herein provided; but said division of the city of Brooklyn and the county of Kings to be made on the second Tuesday of June, one thousand eight hundred and ninety-five, shall be made by the common council of said city and the board of supervisors of said county, assembled in joint session. In counties having more than one senate district, the same number of assembly districts shall be put in each senate district, unless the assembly districts cannot be evenly divided

among the senate districts of any county, in which case one more assembly district shall be put in the senate district in such county having the largest, or one less assembly district shall be put in the senate district in such county having the smallest number of inhabitants, excluding aliens, as the case may require. No town, and no block in a city inclosed by streets or public ways, shall be divided in the formation of assembly districts, nor shall any district contain a greater excess in population over an adjoining district in the same senate district, than the population of a town or block therein adjoining such assembly district. Towns or blocks which, from their location, may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens; but in the division of cities under the first apportionment, regard shall be had to the number of inhabitants, excluding aliens, of the election districts according to the State enumeration of one thousand eight hundred and ninety-two, so far as may be, instead of blocks. Nothing in this section shall prevent the division, at any time, of counties and towns, and the erection of new towns by the Legislature.

An apportionment by the Legislature, or other body, shall be subject to review by the Supreme Court, at the suit of any citizen, under such reasonable regulations as the Legislature may prescribe; and any court before which a cause may be pending involving an appointment, shall give precedence thereto over all other causes and proceedings, and if said court be not in session it shall convene promptly for the disposition of the same.

The domicile or home, requisite as a qualification for voting purposes, means a residence which the voter voluntarily chooses and has the right to take as such, and which he is at liberty to leave, as interest or caprice may dictate, but without any present intention to change it. *People v. Cady*, 148 N. Y. 100. "The Tombs" is a place of confinement for all except the keeper and his family, and a person cannot, under the guise of a commitment or even without any commitment, go there as a prisoner, having a right to be there only as a prisoner, and gain a residence there. *Id.*

The apportionment of a county into assembly districts should be based upon the citizen, and exclude the alien, population. *Matter of Whitney*, 143 N. Y. 531; affirming 75 Hun. 581. The fact that in making such apportionment, it was not based upon the citizen population, but aliens were included, does not necessarily require that the apportionment should be set aside for that error. *Id.* The court will not presume a material disproportion in the distribution of aliens throughout the country. *Id.* And where no appreciable harm has resulted from the error, the apportionment will stand. *Id.*

A reasonable discretion is left with the board of supervisors in dividing a county into districts for the election of members of assembly. *Matter of Baird*, 142 N. Y. 523; affirming 75 Hun. 545. Under the constitutional limitations, forbidding the division of towns in making such an apportionment and requiring each district to be of convenient and contiguous territory, absolute equality of population in the districts is not possible. *Id.* In such case, a slight variation will not warrant or justify an application to the courts for redress. *Id.* To authorize such application, there must be a grave, palpable and unreasonable deviation, so that when the facts are presented, argument will not be necessary to show that such a deviation has been intentionally made. *Id.* The Constitution does not require the districts to be made up of compact territory, and the fact that districts in a city are irregular in form does not establish any actual inconvenience. *Id.* The constitutional prohibition.

against the division of towns in making apportionment does not apply to wards of a city. *Id.* A ward, though treated as a town for some purposes of municipal government, is not a town within the meaning of said prohibition and, therefore, a ward may be divided. *Id.* In the case cited, it was held that the deviations were not so great as to justify the interference of the courts; that the apportionment did not, upon the face of the record, indicate such a manifest abuse of discretion as to amount to an evasion of the law. *Id.* It is not the function of the court of appeals to revise official action involving the exercise of discretion. *Id.*

Under section 5, article 3, of the Revised Constitution, the requirement for equality in number of inhabitants is mandatory, and paramount to that of convenience in arrangement, so that the division of a county in the assembly districts will be set aside, where the board, in making it, sacrifices the requirement of equality in numbers to that of convenience. *Matter of Smith* (Sup. Ct. 3 D., 1895), 90 Hun, 568.

The fundamental idea of all laws, in relation to the apportionment of election districts in this State, is the equality of representation. *Matter of Smith* (Sup. Ct. 3 D., 1895), 10 Hun, 568. The Constitution of the State of New York, 1895, shows an evident intention to reduce to a minimum the discretion vested in the legislature and in boards of supervisors in apportioning senators and members of assembly. *Id.* The main purpose of the provision of said Constitution, relative to apportionment, is to divide the people equally among the senate and assembly districts, and the only limitation upon the complete fulfillment of that principle is the provision which prohibits the division of counties, towns and blocks. *Id.* The Constitution, in order to stop the abuse of having districts irregular in form, has required that they be "of convenient and contiguous territory, in such compact form as practicable;" and in order to minimize any inequality of representation in the number of inhabitants in each district, and in order to reduce the discretion of those making the apportionment to a minimum, the Constitution has provided that "towns or blocks, which from their limitation may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants." *Id.* The word "shall" is here used in the sense of "must," and this direction is mandatory. *Id.* In the case last cited, the action of the board of supervisors of St. Lawrence county in placing the town of Hermon in the second assembly district of that county, and the town of Madrid in the first assembly district of that county, both towns being susceptible of being placed in either assembly district, was held to be erroneous in view of the fact that, had the disposition made of these towns been reversed, the number of voters in each assembly district, after excluding aliens, would have been more nearly equal. It was held to be immaterial that the division actually made was the most convenient for the purposes of the inhabitants of the towns of Hermon and Madrid.

The Constitution of 1895, in making apportionments subject to review by the Supreme Court, at the instance of any citizen, has made a radical change in the question of power which courts formerly had over matters of apportionment. *Matter of Smith* (Sup. Ct., 3 D., 1895), 90 Hun, 568. Under the old Constitution, the court had power to direct a body to proceed anew, without any power to indicate what its actions would be. *Id.* But, under the Constitution of 1895, it seems that the court has power, either to correct errors in an apportionment, or to send the proceeding back to the body whose proceedings are being reviewed, in order that it may correct them. *Id.* The procedure in the Supreme Court to review an apportionment of assemblymen is governed by usage adopted by courts in similar cases as there are no statutory regulations on the subject. *Id.*

Where the board, to which the duty of making an apportionment of assembly districts is delegated, has proceeded in violation of the Constitution, it is the duty of the court, on the application of any citizen, to set aside the apportionment so made, and direct the board to reconvene and make an apportionment in accordance with the requirements of the Constitution. *People ex rel. Gleason v. Board of Aldermen of New York City* (Sup. Ct. Cir. 1895), 14 Misc. 105. The apportionment of the thirteenth senate district into assembly districts by the board of aldermen of the city of New York was held to be violative of the Constitution, inasmuch as the said districts were not made as nearly equal in the number of inhabitants, excluding aliens, as may be. *Id.*

Sec. 42, ch. 456, of 1893. Act to amend Town Law.

Towns
may au-
thorize
use, etc., of
cabinets.

SECTION 1. Any town may, by a majority vote of the town board, at a meeting thereof, held not less than ten days before the time the annual town meeting thereof is to be held, determine upon, purchase and order the use of one or more of Myers' automatic ballot-cabinets at elections of town officers in said town. Until otherwise determined by said town board, said Myers' automatic ballot-cabinets shall be used for the purpose of voting for the officers to be elected at such elections, and for registering and counting the ballots cast thereat.

Ballot.

The ballot by which the elector chooses or votes in said Myers' automatic ballot-cabinet shall be in secret, and shall be a cardboard or paper ticket, which shall contain written or printed, or partly written or printed, the names of the persons for whom the elector intends to vote, and shall designate the office to which each person so named is intended by him to be voted for, and shall not contain any other printed or written device or distinguishing mark, except a heading or caption of its political or party designation, of not exceeding five words, and may be of different colors and contain index hands pointing toward the knobs by which the elector counts and registers his ballot. The town board may make regulations for the use of such ballot-cabinets, but such regulations shall require all actions and proceedings of the election officers to be in public and in the presence of watchers who may be appointed by the different political parties or candidate thereof, and shall not be inconsistent with law further than may be necessary by reason of the use of such ballot-cabinets for the purpose of holding elections, counting and canvassing the ballot thereof.

Regula-
tions for
the use of
cabinets.

Ascertain-
ment of
results.

At the close of the polls at such election at which such ballot-cabinet shall be used, the canvassers shall proceed to ascertain publicly, the total number of ballots cast for each candidate for each office, as registered and declared by such ballot-cabinet register, and such ascertainment of the results shall be deemed to be the canvassing of the votes cast at such election.

INSPECTORS OF ELECTION IN LANSINGBURGH.

Section 15 of chapter 66 of 1894 relates to the appointment of inspectors of election for the village of Lansingburgh, and reads as follows:

§ 15. Before the charter election in the said village, to be held on the first Tuesday in March, eighteen hundred and ninety-four, and before the charter election in said village in each year thereafter, it shall be the duty of the board of trustees of the said village to divide each of the four wards in the said village into two election districts, which shall contain as nearly as may be the same number of voters; and to designate the polling places in the said election districts. The board of trustees shall appoint before the first Tuesday in March, eighteen hundred and ninety-four, and before the charter election in said village in each year thereafter, four inspectors of election to serve at the charter election then next following in said village. Not more than two of the said inspectors of election in each election district shall be members of the same political party. The said inspectors of election shall be men of good character and residents of the election districts in which they shall perform the duties of inspectors of election and shall be competent to cast accounts and to read and write the English language understandingly, and they shall designate one of their number to act as ballot clerk. Said inspectors shall be selected from the two political parties casting the greatest number of votes in the town of Lansingburgh at the last general election held therein, and shall be chosen from a list of qualified electors submitted to the said trustees by the presiding officers of the two principal political organization of said town. Said lists so presented for appointment as inspectors to the board of trustees shall contain the names of not less than ten persons from each election district in said village. In case of the failure of such political organizations to furnish

such lists as aforesaid, the board of trustees shall have power and it shall be their duty to appoint such inspectors from persons known to them to be of the political party or parties failing to present such list or lists. It shall also be the duty of the board of trustees to appoint two poll clerks in each election district who shall be members of different political parties. The inspectors of election and poll clerks shall, before entering upon the discharge of their duties, qualify themselves for the said offices by taking the oath of office required by law to be taken by inspectors of election and poll clerks, and shall select by lot or agreement from the inspectors representing the political party casting the largest vote at the last general election in said town, a chairman for said board, and the said inspectors of election shall open the polls in the said village at sunrise and receive the ballot of all qualified electors, and deposit them in the ballot boxes, and close the polls of the said election at four o'clock in the afternoon. On the closing of the polls, the inspectors of election shall open the ballot boxes and count and compare with the poll-lists the number of ballots, as required by law, and shall then, in the manner provided by law, proceed to canvass the votes cast and ascertain the result of the said canvass, which they shall declare, and make due returns thereof, and they shall not leave the polling place until they have publicly declared the result and made and signed the returns. They shall immediately proceed with said returns to the office of the clerk of said village, whose duty it shall be to be in his office in the said village, at that time, and to receive and record the same. The board of trustees of said village shall, within forty-eight hours after the close of the polls, meet and proceed to canvass said returns, and shall make a certificate stating the results of the said canvass and declaring what persons have been elected, and shall cause the said certificate to be recorded in the book of minutes of the proceedings of the said trustees. It shall then be the duty of the said clerk to notify immediately in writing each of the said persons of his election.

INSPECTORS OF ELECTION IN THE CITY OF ROCHESTER.

Sections 14, 15, 16 and 17 of chapter 14 of 1880, as amended by chapter 28 of 1894, relate to the appointment and duties of inspectors of election in the city of Rochester, and read as follows:

§ 14. **Inspectors of election.** — Three inspectors of election for each ward or election district in said city shall be elected at each annual charter election. The electors of each election district in said city shall be entitled to vote by ballot on the same ticket with other charter officers, for two electors residing in such election district to be inspectors of election for said district, and the two persons in each district receiving the greatest number of votes shall be two of the inspectors of election for such district at all elections to be held therein during the ensuing year. The board of inspectors of election in each of said election districts shall, immediately after the votes of such charter election shall be canvassed, appoint in writing, subscribed by a majority of said board, another inspector of election for each election district, to be associated with said two inspectors so elected, and who shall thereupon be one of the inspectors of election of such district. Such inspector shall be selected from the two persons in such election district who shall have the highest number of votes next to the two inspectors so elected. And no ballot for inspector shall be counted upon which more than two names shall appear. Not more than two inspectors for one district shall belong to the same political party. The poll clerks and ballot clerks in each election district shall be appointed by the inspectors of election as provided for in the new election code, and the several amendments thereto, the provisions of which are hereby declared to be applicable to said city.

§ 15. **Vacancies in office of inspectors of election.** — In case any such inspector of election in said city shall not be chosen or appointed as provided for in the preceding section, or in case of the death, inability or refusal of any such inspectors to act or of his ceasing to be a resident of the election district for which he was appointed or elected, the common council must thereafter appoint another in his or their place by viva voce vote, and the per-

son or persons thus appointed shall be inspector or inspectors of the election district for which he or they was or were so appointed.

§ 16. **General election law applicable.**— The conduct of elections, the duties of inspectors of elections, poll clerks and bailot clerks in and of said city shall be the same as provided for by the election code of the state of New York and the several amendments thereto, the provisions of which in respect thereto are hereby declared applicable to said city.

§ 17. **Ballots and ballot-boxes.**— The ballots and ballot-boxes to be used at the charter elections of said city shall be the same as provided for by the election code of the state of New York and the amendments thereto, the provisions of which in respect thereto, are hereby declared to be applicable to said city. The common council shall provide such ballot-boxes for each ward or election district, with locks and keys, as are required by the provisions of the election code and the amendments thereto.

GENERAL ELECTION LAW IS APPLICABLE TO CORPORATION ELECTIONS IN THE VILLAGE OF CANANDAIGUA.

But the board of trustees of said village are hereby authorized and empowered to determine upon, purchase, and order the use of the requisite number of Myers' automatic ballot cabinets at elections of village officers in said village, as boards of town officers are now authorized and empowered to determine upon, purchase, and order the use of the same, under the provisions of chapter one hundred and twenty-seven of the laws of eighteen hundred and ninety-two, and in such case, the provisions of said act are hereby made applicable to elections of village officers in said village. [Part of § 5 of chap. 666 of 1893, as am'd by chap. 131 of 1894.]

CHAP. 127.

AN ACT to amend chapter five hundred and fifty-five of the laws of eighteen hundred and sixty-four, entitled "An act to revise and consolidate the general acts relating to public instruction," and the several acts amendatory thereof and supplementary thereto, relating to the time and place of holding the annual meetings and elections in the school districts of the state.

BECAME a law March 13, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section eight of title seven of chapter five hundred and fifty-four of the laws of eighteen hundred and sixty-four, as amended by chapter two hundred and forty-five of the laws of eighteen hundred and eighty-nine, and chapter five hundred of the laws of eighteen hundred and ninety-three, is hereby further amended so as to read as follows:

§ 8. The annual meeting of each neighborhood shall be held on the first Tuesday of August in each year, at the hour and place fixed by the last previous neighborhood meeting; or, if such hour and place have not been so fixed, then the same shall be held in the school-house at seven thirty o'clock in the evening. If a neighborhood possesses more than one school-house, it shall be held in the one usually used for that purpose, unless the trustees designate in the notice another. If there is no school building, or if the school-house shall be no longer accessible, then at such other place as the trustees, or, if there be no trustees, the clerk, shall, in the notice, designate.

§ 2. Section nine of title seven of chapter five hundred and fifty five of the laws of eighteen hundred and sixty-four, as amended by chapter two hundred and forty-five of the laws of eighteen hundred and eighty-nine, and chapter five hundred of the laws of eighteen hundred and ninety-three, is hereby amended so as to read as follows:

§ 9. The annual meeting of each school district shall be held the first Tuesday of August in each year, and unless the hour and place thereof shall have been fixed by a vote of a previous district meeting, the same shall be held in the school-house at seven thirty o'clock in the evening. If a district possesses more than one school-house, it shall be held in the one usually employed for that purpose, unless the trustees designate another. If the district possesses no school-house, or if the school-house shall be no longer accessible, then the annual meeting shall be held at such place as the trustees, or, if there be no trustee, the clerk, shall designate in the notice.

§ 3. This act shall take effect immediately.

Section 9, chapter 356 of 1894, provided for the division of the town of Flatbush, annexed to the city of Brooklyn, into election districts, and reads as follows:

§ 9. Immediately after the passage of this act the board of elections of the city of Brooklyn shall proceed and divide the territory hereby annexed into convenient election districts for the holding of general and special elections in the manner provided for dividing said city into election districts, and the districts so fixed shall be the districts for the purpose aforesaid until said city is again divided into election districts as by law provided.

Section 7 of chapter 450 of 1894, provided for the division of the town of Flatlands, annexed to the city of Brooklyn, into election districts, and reads as follows:

§ 7. Immediately after the passage of this act the board of elections of the city of Brooklyn shall proceed and divide the territory hereby annexed into convenient election districts for the holding of general and special elections in the manner provided for dividing said city into election districts, and the districts so fixed shall be the districts for the purposes aforesaid until said city is again divided into election districts as by law provided.

Section 8, chapter 451 of 1894, provided for the division of the town of New Utrecht, annexed to the city of Brooklyn, into election districts, and reads as follows:

§ 8. Immediately after this act shall take effect, the board of elections of the city of Brooklyn shall proceed and divide the territory hereby annexed into convenient election districts for the holding of general and special elections in the manner provided for dividing said city into election districts, and the districts so fixed shall be the districts for the purposes aforesaid until said city is again divided into election districts as by law provided.

Myers' Automatic Ballot Machine.

Chap. 764.

AN ACT to enable the towns and cities of this state to use the Myers automatic ballot machine at all elections therein.

BECAME a law May 11, 1896, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The common council of any city and the town board of any town within this state may adopt the Myers automatic ballot machine for use at all elections, and thereupon it shall be lawful to use such ballot machines for the purpose of voting for all public officers to be voted for by the voters of such town or city, or any part thereof, and upon all constitutional amendments or propositions, or questions which may lawfully be submitted to such voters, and for registering and counting the ballots at such elections.

Am'd by chap. 168 of 1896. In effect March 30, 1896.

§ 2. **Definitions.**—The following terms as used within this act shall be construed to mean as follows:

Cabinet.—The Myers automatic ballot machine as a whole.

Voters' compartment.—That part of the ballot machine occupied by the voter in voting.

Counted* compartment.—The closed portion of the ballot machine containing the automatic mechanical counters.

Counters.—The registering dials in the counter compartment.

Public counter.—The exposed dial at the front of the ballot machine which registers the total number of electors voting.

Partition plate.—The metal partition dividing the voter's compartment from the counter compartment.

*So in the original.

Push knobs.—The knobs projecting from the partition plate into the voters' compartment and by which the elector registers his vote.

Keyboard.—The face of the partition plate within the voters' compartment.

Ballot frames.—The metallic frames within which the ballots are secured upon the keyboard.

Ballots.—The tabulated lists of offices and nominees respectively, therefor, or succinct statements of the constitutional amendments or other questions or propositions submitted, arranged vertically in pairs, successively captioned "for" and "against," printed on cardboard or heavy paper and of dimensions, colors and type as herein specified to be placed within the ballot frames, posted at the polls and given to the inspectors as in this act prescribed.

Ballot captions.—The headings upon which are printed the name or other appropriate designation of the party or other nominees, constitutional amendments, questions or propositions submitted to be placed in a frame provided therefor, upon the key-board above each vertical column of nominees, constitutional amendments, questions or propositions, and to correspond therewith in material and color.

Diagram poster.—A complete set of ballots and ballot captions forming a fac-simile of those upon the key-board and to be posted at the polls.

Counter labels.—The cards or labels placed in receptacles upon the face of the respective counters attached to the back of the partition plate within the counter compartment, having printed thereon the name of the nominee, or a statement of the amendment, question or proposition submitted, successively, following the words "for" and "against" placed directly opposite the corresponding name, amendment, question or proposition as it appears upon the face of the partition plate, within the voters' compartment and being of the same material and color as its said opposite.

Instruction cards.—The directions as to method and manner of voting and statement of the penal provisions relating to the election code, and to be posted at the polls.

The word nominee, is to be construed to mean, any persons for whom an elector may vote at the election.

Town.—The word “town” as herein used shall be construed to mean such town as shall have adopted the Myers’ ballot machine as prescribed in section one.

City.—The word “city” as herein used shall be construed in mean such city as shall have adopted the said ballot machine as prescribed in section one.

§ 3. **Provisions for equipment of polling places.**—The town board of each town and the common council of each city shall provide for each election necessary polling places, and shall provide for each polling place, at each election, the necessary ballot machines in complete working order, with ballots, ballot captions and counter labels in their proper places therein, and with the dials of the labeled counters set at nine, guard rails, inspectors’ table, and other furniture and equipment of such polling place necessary for the lawful conduct of the election thereat, put the inspectors of election in possession thereof and deliver to them the keys of the ballot machine therein, at least forty minutes before the opening of the polls for holding an election. The town board of each town and the common council of each city shall care for the ballot machine, furniture and equipment of each polling place when not in use in elections.

Am’d by chap. 163 of 1896. In effect March 30, 1896.

§ 4. **Arrangement of the polling place.**—The ballot machines at each polling place shall be so placed as to be at least three feet from the wall of the room and at least three feet from the outer guard-rail. There shall be two guard-rails, called the outer and inner rails. The outer rail shall be so placed as to bar access to within three feet or more of the ballot machine, with openings or gateways therein leading to and from the inspectors’ table, which shall be at least four feet from the ballot machines. The inner guard-rail shall extend to a point at or near the inspectors’ table from a fixture on the ballot-machine placed between the entrance and exit doors. Such other guard-rails may be used as shall seem necessary or convenient. The ballot-machine and every part of the polling place, except the interior of the ballot-machine, shall be in plain view of the election officers and persons just outside the guard-rails.

§ 5. **Providing ballots.**—The county clerk of the county shall provide, at the county’s expense, the requisite number of ballots, ballot captions, counter labels and instruction cards for each polling place in such town and city for each election to be held thereat, except town meetings and city and village elections and elections of school officers not held at the same time as the general election. If a city or village election or a town meeting for the election of public

officers shall be held upon a different day from a general election, the clerk of such city, village or town shall provide, at the expense of such city, village or town, the requisite number of ballots, ballot captions, counter labels and instruction cards for each polling place. The ballots, ballot captions, counter labels and instruction cards shall be printed and in possession of the clerk charged with providing them and open to the public inspection four days before the election, except those for a village election or a town meeting held at a different day from the general election shall be so printed, in possession and open to public inspection two days before such village election or town meeting. In any town, village, city or county where the Myers automatic ballot machine has been or may be adopted for use at elections, the voting precincts or districts therein may be arranged by the officers charged by law with such duty, so as to contain not more than six hundred voters each.

Am'd by chap. 78 of 1895. Took effect March 5, 1895.

§ 6. Description of ballot captions, ballots, counter labels, and instruction cards.—Ballot captions shall be of cardboard or heavy paper, four inches long by three and three-fourths inches wide and shall have printed thereon, in plain clear type as large as the space will reasonably permit, the party or other appropriate designation of the nominees, amendments, questions or other propositions submitted. Ballots shall be of as many kinds as there are political parties or titles represented by certificates of nominations duly filed, or constitutional amendments, questions or other propositions submitted, and shall be of cardboard or heavy paper, three and five-eighths inches wide, spaced by cross lines one and eleven-sixteenths inches apart, between centers of lines, except the upper one should be thus spaced, four inches from the top and upon the ballot shall be printed in plain, clear type, not smaller than pica, the name of the office and under it the name of the candidate or nominee therefor in plain, clear type, known as great primer ionic, as large as the width of the ballot will permit, or a plain, concise statement of the amendment, question or proposition submitted under successive captions "for" and "against," with or without an index hand pointing (when placed in the ballot-frame) to the push knob used when voting by that ballot. Counter labels shall be of cardboard, or heavy paper, three-eighths of an inch wide by three inches long, upon which shall be printed the name or other suitable designation of the nominee, amendment, question or other proposition submitted. Should any party fail to make a nomination for an office, the ballot in that party's column upon the key board

on the horizontal line devoted to that office, shall be left blank and its push-knob to the right and opposite thereto shall be capped so as to be inoperative. Should two or more parties nominate the same person for the same office, his name shall be printed upon the ballot of the party which shall first nominate him, provided such nominee within two days after his second nomination, may by a written instrument acknowledged as deeds are required to be acknowledged for record, and filed with the county clerk of the county, designate which one of such political parties in whose column he desires his name to appear, and the county clerk shall prepare his ballot for that party, and the ballots of the other party or parties which shall have nominated him, shall be left blank for that office, and the corresponding push-knob or push-knobs to the right of and opposite thereto shall be capped so as to be inoperative. If two or more officers are to be elected to the same office for different terms, the term for which each is nominated shall be designated on the ballot. If, in any congressional district, one congressman is to be elected for a full term and another to fill a vacancy, the ballot containing the name of each nominee shall designate the congress for which he is nominated. The ballot captions, ballots and counter labels of the several political parties or other nominating bodies, and the ballots for and against constitutional amendments or other propositions or questions, shall be distinguished from each other by distinctive colors; and, so far as is possible, the colors to be used to distinguish the candidates of the different political parties or other nominating bodies shall be those prescribed by the present usage of those towns in which such ballot machines have heretofore been used. The instruction cards shall state the prescribed colors of the party ballots and other ballots, and ballot captions, and give a summary of the laws punishing violations of the election law, with such other information as shall seem pertinent and advisable.

§ 7. Number of ballot captions, ballots, counter labels, and instruction cards.—Four ballots of each kind shall be provided for each polling-place. Four instruction cards printed in English and four printed in such other language or languages as shall be prescribed by the board of supervisors of the county, shall be provided for each polling place. They shall be printed in clear type so as to be easily read. Four complete sets of ballot captions

and two complete sets of counter labels shall also be provided for each polling place.

§ 8. **Correction of mistakes.**—Upon affidavit presented by any voter that an error or an omission has occurred in the printing of the ballots, ballot captions or counter labels, the supreme court or a justice thereof, may make an order requiring the county clerk or other officer or board charged with the duty in respect to which such error or omission occurred, to correct such error or show cause why it should not be corrected. The county clerk or other officer or board shall, on their own motion, correct any palpable error in the ballots, ballot captions, counter labels or instruction cards which can be corrected without interfering with their timely distribution.

§ 9. **Distribution of ballots.**—The county clerk charged with the duty of providing ballots, ballot captions, counter labels, and instruction cards, shall on Saturday before the election in which they are to be used, deliver to the clerk of each town and to the city clerk of each city in the county, the ballots, ballot captions, counter labels, and instruction cards required for each polling place in such town or city. They shall be so delivered in two equal and similar sealed packages for each election district, each marked upon the outside thereof with the designation of the election district for which it is intended. Receipts, specifying the number and kind of packages, shall be given by each town and city clerk, and filed with the county clerk, who shall keep a record thereof, specifying the time and manner of the delivery. Each town and city clerk receiving such packages shall cause one of them to be delivered unopened and with its seals unbroken, to the inspectors of the election district marked thereon, at least thirty minutes before the opening of the polls, and shall take a receipt from such inspectors, specifying and describing the package, which receipt shall be filed in the office of such clerk; from the contents of the other package he shall, not later than the day preceding the election, place, or cause to be placed, in the proper receptacles in each ballot-machine the ballot captions, ballots and counter labels in the order as officially published, and shall post instruction cards and diagram posters within the polling-room, accessible to voters, and set all labeled counters at ninety-nine hundred and ninety-nine. City and town clerks, charged with the duty of providing ballots, ballot captions, counter

labels and instruction cards shall, in like manner, distribute them and take receipts therefor within their respective cities and towns. Such receipts shall be filed in the respective offices of the city and town clerks.

§ 10. Lost ballots.—If the ballots, ballot captions, counter labels or instruction cards shall not be furnished to the town or city clerk as required herein, or if after being furnished and delivered they, or any of them, shall be lost, destroyed or stolen, the clerk of such town or city shall cause other ballots, as nearly in the form as those lost, destroyed or stolen, as possible, captions, counter labels or instruction cards to be prepared, and deliver them to the inspectors of election in their several election districts, and the substituted ballots, ballot captions, counter labels or instruction cards shall be used at the election in the same manner, as near as may be, as those lost, destroyed or stolen. The inspectors may correct palpable errors therein and shall, in their statement of the election, specify such corrections as made by them.

§ 11. Preparation for voting.—The inspectors of election and the poll clerks shall meet at their respective polling places in each election district forty minutes before the time designated for the opening of the polls therein. The inspectors shall choose one of their number chairman, if not already so chosen and present. They shall there have the ballots, ballot captions, counter labels and instruction cards, and shall break the package thereof, make and post conspicuously, and so as to be accessible, one or more diagram posters, two or more instruction cards, and, if they shall be printed in different languages, at least two in each such language, at said polling-place. The diagram posters and instruction cards so posted shall not be taken down, torn, defaced or mutilated at such elections. The chairman shall retain one complete set of ballots, ballot captions and counter labels for use within the ballot machines, if needed. The inspectors shall then enter the voters' compartment of the ballot machine through the entrance door, and, if not already done, the chairman shall, in the presence of the inspectors, adjust and secure within the frames upon the key-board the ballot captions and ballots in the vertical numbered columns and to the left side of the push-knobs of the same color as the ballots, and arranged in the same order as on the diagram posters. The

chairman shall then, in an audible voice, read from the said columns consecutively, beginning with the column number one, the caption and the ballots thereunder, in the order that they appear on the key-board. The inspectors shall see that all the names of the nominees for the same office appear and remain on the same horizontal lines, and that the ballots upon constitutional amendments, or other questions or propositions submitted, are arranged in pairs, successively captioned "for" and "against." The chairman shall then lock the bolt-rod behind the lock-button at the left side of the key-board. The inspectors shall then leave the voters' compartment through the entrance door, and the authorized watchers may then inspect the interior of the voters' compartment, likewise entering and departing through the entrance door, which shall thereupon be closed and locked by the chairman. The chairman shall then fully open the sliding doors of the counter compartment, in the presence of the inspectors and watchers, and, if not already so done, set each dial in every labeled counter at nine, and announce that every counter is so set. The chairman shall then direct the other inspectors to enter the voters' compartment, push in the push-knob of the uppermost ballot in column number one, and read aloud said ballot, whereupon the chairman shall insert in the receptacle of the counter thus indicated its counter label, if not already inserted, and shall audibly repeat the name, and, in substance, say his counter is labeled and that all its dials are set at zero. They shall thus continue until all the push-knobs in column number one have been pushed in. One of the inspectors shall then go out through the exit door, thus releasing the push-knobs. The inspectors shall then re-enter the ballot machine, and they shall proceed with the remaining columns in all respects as with column number one. The inspectors shall then leave the voters' compartment, one going out through the exit door, the others through the entrance door. They shall all then see that the counter labels are in the same relative position opposite their respective ballots, and that all dials stand at zero, and each of them shall announce that all dials stand at zero. The chairman shall then adjust the public counter at zero. The counter compartment shall then be locked.

Am'd by chao. 163 of 1896. In effect March 30, 1896.

§ 12. Duties of inspectors.—During the time that the polls are open the chairman, or one of the inspectors, shall be stationed at the entrance door of the ballot-machine to act as doorkeeper.

§ 13. Voting.—The polls being open, the voters shall pass through the opening in the outer guard-rail singly or in single file, and keeping in file, proceed to the inspectors' table. If the

voter shall be found to be entitled to vote, the doorkeeper shall admit him to the ballot-machine through the entrance door, which shall be immediately closed and kept closed until said voter shall have come out through the exit door, and said exit door is entirely closed. The voter may be challenged at any time before he enters the ballot-machine.

§ 14. **Disabled voters**.—Any voter who shall be totally blind, without the use of either hand sufficient to push the knobs, or physically unable to enter or leave the ballot-machine without assistance, may choose from the inspectors or poll clerks, an assistant, who shall be admitted to the ballot-machine with him. The person so selected shall not, in any manner, request or seek to persuade or induce such voter to vote any particular ballot or for any particular nominee, amendment, question or proposition, and shall not reveal how such disabled voter voted, or what occurred within the ballot machine. After voting, one shall come from the ballot-machine through the entrance door first, the other through the exit door last. The name of the assistant shall be noted on the registers and poll-lists, opposite the name of the disabled voter and also the character of the disability. Intoxication, inability to read and write, and mental disability shall not be regarded as physical disability. Such physically disabled voter may be examined under oath administered by any inspector as to his disability, and if he knowingly testify falsely, he shall be guilty of perjury and punishable therefor.

§ 15. **Time of voting**.—No voter shall remain within the ballot-machine longer than one minute. If he do so, he shall be requested to leave the ballot-machine, and if he refuse, he shall be removed, and the inspectors may call for such aid as shall be needed so to do.

§ 1. **Instructing voter within the ballot-machine**.—In case any voter within the ballot-machine shall ask the doorkeeper any question concerning the manner of voting, the doorkeeper shall summon another inspector of a party other than his own, and the question shall then be answered in the presence of both such inspectors; but under no circumstances shall advice be given as to how or for whom the voter shall vote.

§ 17. **Canvassing the vote**.—As soon as the polls are closed, the entrance door of the ballot machine shall be locked. The inspectors shall then, in the presence of the watchers, unlock and open

the sliding doors of the counter compartment, only so far as to fully expose the full width of the wire-meshed guard door. The chairman shall read or announce, reading from left to right, the result in an audible voice to the others, as shown by the dials and they shall each and all observe and record the total number of votes registered for each respective candidate and upon each constitutional amendment, question, or other proposition as registered and declared by such ballot machine register, and such ascertainment of the results shall be deemed to be the canvassing of the votes cast at such election. The wire-meshed guard door shall not be unlocked or opened at any time during the canvass. They shall then close and lock the counter compartment doors and shall observe and record the total number of voters who have voted in the ballot machine by transcribing the number shown by the dials of the public counter.

§ 18. **Certified statement.**—Upon the completion of the canvass, the inspectors shall make and sign a written statement thereof, showing the date of the election, number of the district, the town or ward and the county in which it was held, the whole number of votes cast for each office, the whole number cast for each nominee for such office and the whole number cast, respectively, for and against each constitutional amendment, question, or other proposition submitted. Copies shall be made and filed and proclamation of the result of the election made as now required by the election law.

§ 19. **Ballot clerk.**—No ballot clerks shall be elected or appointed in any town or city that shall have adopted the use of the ballot machine.

§ 20. **Election law.**—The provisions of the election law not inconsistent with this chapter shall apply with full force to all towns and cities adopting the use of the ballot machine.

§ 1. **Additional ballot machines.**—Nothing herein contained shall prevent the use of more than one ballot machine in any polling place during an election.

§ 22. **Mistakes and omissions.**—A departure in matters of form or method from those prescribed herein not tending to prejudice the substantial rights of the voter, shall be disregarded, and the provisions of this chapter shall be liberally construed to effect the objects of the law.

§ 23. The counties of New York and Kings are excepted from the provisions of this act.

§ 24. This act shall take effect immediately.

Chap. 765.

AN ACT to secure independence of voters at town meetings, secrecy of the ballot, and providing for the use of automatic ballot-cabinets.

BECAME a law May 24, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Hereafter within this state any town or incorporated village may, by a majority vote of the town board, or board of trustees of such village at a meeting thereof, held not less than ten days before the time of the annual town meeting, or village election thereof is to be held, determine upon, purchase and order the use of one or more automatic ballot-cabinets at elections of town or village officers; and thereafter at all elections of town officers in said town, or officers of such village, until otherwise determined by said town board or board of trustees of such village said automatic ballot cabinets shall be used for the purpose of voting for the officers to be elected at such elections and for registering and counting the ballots cast thereat.

§ 2. The ballot by which the elector chooses or votes in said automatic ballot cabinets shall be in secret, and shall be a card board or paper ticket, or emblem, which shall contain written or printed, or partly written or partly printed, the names of the persons for whom the electors intends to vote, and shall designate the office to which each person so named is intended by him to be chosen, and shall not contain any other printed or written device or distinguishing mark, excepting a heading or caption of its political or party designation, of not exceeding five words, and may be of different colors, and if there shall be found in ballot boxes more ballots of the respective political parties than were indicated by the automatic registers, such excess of ballots of the respective parties shall be rejected; and the canvassers shall also make a true canvass of all split tickets, and make an accurate return of the votes cast for the respective candidates. The town board or board of trustees of such village may make regulations for the use of such ballot cabinets, but such regulations shall require all actions and proceeding of the election officers to be in public in the presence of watchers who may be appointed by the different political

parties or candidates thereof, and shall not be inconsistent with law further than may be necessary by reason of the use of such ballot cabinets for the purpose of holding elections, counting and canvassing the ballots thereof. In any town or incorporated village wherein any such automatic ballot cabinet has been or may hereafter be adopted, the town board or trustees of such village, may provide in such regulations that the voting precincts or districts therein may be arranged so as to contain not more than eight hundred voters, and all officers of law charged with the duty of arranging for election precincts or districts shall be governed according to such regulations.

Am'd by chap. 158 of 1895. Took effect March 23, 1895.

§ 3. All election officers are hereby charged with the proper carrying out of necessary regulations for the use of any automatic voting machine provided in their respective towns or villages.

§ 4. Any violation of the provisions of this act or any willful attempt to injure or render ineffectual any such automatic voting machine provided in accordance with the provisions of this act shall be deemed a misdemeanor.

§ 5. This act shall take effect immediately.

CHAP. 262.

AN ACT to amend the town law, relating to balloting.

BECAME a law April 8, 1895 with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. Section thirty-eight of chapter five hundred and sixty-nine of the laws of eighteen hundred and ninety, known as the town law, is hereby amended so as to read as follows :

§ 38. **Balloting.**—When the electors vote by ballot, all the officers voted for, except commissioners of excise, shall be named in one ballot which shall contain written or printed, or partly written and partly printed, the names of the persons voted for, and the offices to which such persons are intended to be elected, and shall be delivered to the presiding officers so folded as to conceal the contents, and shall be deposited by such officers in a box, to be constructed, kept and disposed of, as near as may be, in the manner prescribed in the general election law. Commissioners of excise shall be voted for upon a separate ballot, which shall be deposited in a separate box marked "excise." When any town shall have within its limits an incorporated village, constituting a separate road district, exempt from the supervision and control of the commissioners of highways of the town, and from payment of any tax for the salary or fees of said commissioners, and from payment of any tax for the opening, erection, maintenance and repair of any highway or bridge of said town, without the limits of said village, no residents of such village shall vote at any annual or special election in such town for any commissioner of highways for said town, nor for or against any appropriation for the opening, laying out, maintenance, erection or repair, of any highway or bridge in said town without the limits of said village. At the annual elections in such towns, the names of candidates for the office of highway commissioner shall be printed on a different ballot from the one containing the names of candidates for other town offices. Such ballots shall be indorsed "commissioner of highways," and shall be deposited, when voted, in a separate ballot-box, which also shall be marked "commissioner of highways." Such ballots and ballot-box shall be furnished by the officers now charged by law with that duty at town elections. A poll-list shall be kept by the clerk of the meeting on which shall be entered the name of each person voting by ballot.

§ 2. This act shall take effect immediately.

Chap. 339.

AN ACT to enable the towns and cities of this state to use the Davis automatic ballot machines at all elections therein.

BECAME a law April 21, 1896, with the approval of the Governor. Passed, a majority being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Section 1. The common council of any city, and the town board of any town within this state may adopt the Davis automatic ballot machine for use at all elections, and thereupon it shall be lawful to use such ballot machines for the purpose of voting for all public officers to be elected by the voters of such town or city, or any part thereof, and upon all constitutional amendments or propositions, or questions which may lawfully be submitted to such voters, and for registering and counting the ballots cast at such election.

§ 2. The common council of each city, and the town board of each town adopting said machine, shall provide for each polling place, at each election therein, the necessary ballot machines, in complete working order, with the dials of the counters set at 0, and shall care for the said ballot machines, as well as the furniture and equipment of the polling places when not in use at elections.

§ 3. The ballot machine and every part of the polling place shall be in plain view of the election officers, including the watchers. The ballot machines shall be placed at least three feet from the wall of the room and at least three feet from the outer guard-rail. The inspectors' table shall be at least four feet from the ballot machine. An inner guard-rail shall extend from the ballot machine and between the entrance and exit doors thereof to a point at or near the inspectors' table. The outer guard-rail shall be so placed as to bar access to within three feet at least of the ballot machine, but with openings or gateways leading to and from the inspectors' table. Party nominations shall be arranged in columns, or else in horizontal rows, upon the said machines, and at the head of each of said columns, or else at the end of each of said rows, as the case may be, ballot captions shall be placed of cardboard, or heavy paper, not less than four inches long nor less than three inches wide, which shall have printed thereon, in plain, clear type, as large as the space will reasonably permit, the

party or other lawful designation of the nominee, amendments, or other questions or propositions submitted to vote. For each candidate lawfully nominated, and for each constitutional amendment or other proposition lawfully submitted to vote, a push key or lever shall be set as provided in section two of this act, and adjacent thereto shall be attached a printed ballot of cardboard, or heavy paper, not less than three inches long and not less than two inches wide, upon which shall be printed in plain, clear type, as large as the space will reasonably permit, the name of the office and the name of the candidate or nominee therefor; or a concise statement of the amendment, question or proposition submitted, under successive headings for and against. Should any party fail to make a nomination for any office, the ballot in that party's column or horizontal line upon the keyboard devoted to that office shall be left blank, and the push-knob or lever thereof shall be capped or otherwise arranged so as to be inoperative. Should two or more parties nominate the same person for the same office, or should the same person be nominated for the same office by any party and also by independent nomination, his name shall be printed upon the ballot of the party, or in the list of independent nominations, the certificate of which shall first be filed as required by law; provided, however, that such nominee may, within two days after his second nomination, by a written instrument, acknowledged as deeds are required to be acknowledged for record, and filed with the county clerk of the county, require his name to appear in the column or horizontal line of some other party so nominating him, and the county clerk shall prepare his ballot accordingly, and the ballots of the other party or parties which shall have nominated him shall be left blank for that office, and the corresponding push-knob or push-knobs or levers shall be capped or otherwise arranged so as to be inoperative. If two or more officers are to be elected to the same office for different terms, the term for which each is nominated shall be designated on the ballot. The ballot captions and ballots of the several political parties or other nominating bodies, and those for and against constitutional amendments or other propositions or questions, shall be distinguished from each other by distinctive colors, and the ballot captions shall contain thereon the party emblems as provided by section fifty-six of chapter eight hundred and ten of the laws of eighteen hundred and ninety-five. In addition to the push-knob or lever and the ballot for each candidate, such ballot machines may also provide in each column or horizontal line of the party nominations a separate push-knob or lever to vote a ballot printed in plain, large type "straight ticket." In presidential elections such ballot machines may provide in each column or horizontal

line of party nominations a separate push-knob or lever to vote a ballot for all the presidential electors nominated by such party.

§ 4. The county clerk of the county shall provide at the expense of the county, the requisite number of ballots, ballot captions, counter labels and instruction cards for each polling place in such town and city for each election to be held thereat, except for town meetings, village elections, and the elections of school officers not held at the same time as the general election, in which latter case the clerk of such village, town or school district shall provide at the expense of said village, town or school district the requisite number of ballots, ballot captions, counter labels and instruction cards for each polling place. The ballots, ballot captions, counter labels and instruction cards shall be printed and in possession of the clerk charged with the duty of providing them and open to the public inspection four days before every election, except in case of a town meeting, village election, or election of school officers not held at the same time as the general election, in which case they shall be so printed and open to public inspection two days before such election.

§ 5. Four sample ballots of each kind shall be provided for each polling place, and four instruction cards printed in such other language or languages as the common council or the town board may prescribe, shall be provided for each polling place, together with four complete sets of ballot captions. The ballot captions and ballots shall be duplicates of those used upon the machine, and the instruction cards shall be printed in clear type so as to be easily read. The instruction cards shall state the prescribed colors and emblems of the party ballots, and of the ballots of independent nominees, and shall give a summary of the laws punishing violations of the election law and full instructions for the use of said ballot machines.

§ 6. The county clerk or other officer having charge of the printing of the ballots, ballot captions and instruction cards, shall on his own motion, correct any error therein upon discovery thereof, which can be corrected without interfering with their distribution and use at the election.

§ 7. Counter labels shall be of cardboard or heavy paper of the same length, width and color as the ballots, and shall be so placed on the machine as that the registering counter for each push-knob or lever shall show, adjacent to the label or ballot, the number of ballots cast for the candidate whose name is printed upon said counter label.

§ 8. The clerk charged with the duty of providing ballots, ballot captions, counter labels and instruction cards shall, on Saturday before the election at which they are to be used, deliver to

the clerk of each town and city in the county, the ballots, ballot captions, counter labels and instruction cards required for each polling place in such town or city.

§ 9. The inspectors of election and poll clerks shall meet at their respective polling places in each election district, thirty minutes before the time of opening of the polls therein. After the election of one of their number as chairman, they shall post the instruction cards and sample ballot captions, and shall, if the same has not already been done, adjust and secure within the frames upon the keyboard, the ballot captions and ballots in the presence of the official watchers. The inspectors shall then fully open the doors of the counter compartment in the presence of the inspectors and watchers, and shall thereupon push the push-knobs or levers on the balloting side of the machine until all the counter dials register at zero. The counting apparatus shall then be locked.

§ 10. After the polls shall have been duly opened, the voters shall pass through the opening in the outer guard-rail singly or in single file to the inspectors' table. If the voter shall be found entitled to vote, one of the inspectors shall admit him to the ballot machine through the entrance.

§ 11. Any voter who shall be totally blind or without the use of either hand sufficient to push the knobs or levers, or who shall be physically unable to enter or leave the ballot machine without assistance, may choose from the inspectors or poll clerks an assistant who shall be admitted to the ballot machine with him, provided he shall have been duly registered as a disabled voter pursuant to section one hundred and five of chapter eight hundred and ten of the laws of eighteen hundred and ninety-five; but intoxication or illiteracy shall not be regarded as a physical disability.* The inspector or poll clerk selected by the voter shall not in any manner request nor seek to persuade or induce such voter to vote any particular ballot, or for any particular nominee, amendment, question or proposition, and shall not reveal for whom such disabled voter voted.

§ 12. In case any voter after entering the ballot machine shall ask for further instructions concerning the manner of voting, two inspectors of opposite political parties shall stand outside the machine and give such directions to the voter as they two may agree upon, except that under no circumstances shall either of them give advice as to voting for any particular nominee, amendment, question or proposition.

§ 13. No voter shall remain within the ballot machine longer than one minute, and if he shall refuse to leave the said machine after the lapse of one minute, he shall be removed by the inspectors.

* The chapter referred to was repealed by chap. 909, Laws of 1893.

§ 14. As soon as the polls are closed the ballot machine shall be locked against voting, and the counting compartment opened in the presence of the watchers and all other persons who may be lawfully within the room, or voting place, giving full view to the dial numbers announcing the votes cast for each candidate, and for or against the various constitutional amendments, questions or other propositions.

§ 15. The inspectors shall then add together the votes cast for each candidate upon the straight tickets, if any, and the votes cast for such candidates by reason of the push-knob or lever bearing the name of that candidate, and officially and publicly announce the total vote for each candidate thus ascertained. Before leaving the room or voting place, and before closing and locking the counting compartment, the inspectors shall make and sign written statements of election required by section one hundred and fifteen of chapter eight hundred and ten of the laws of eighteen hundred and ninety-five, except that such statements of the canvass need not contain any ballots, official or defective.* The written statements so made, after having been signed by the inspectors, shall be read in the hearing of all persons present and ample opportunity given to compare the results so certified, with the counter dials so exposed to public view. After such comparison and correction, if any, are made, the inspector shall then close the counting compartment.

§ 16. No ballot clerks shall be elected or appointed in any town or city that shall have adopted the use of the ballot machine.

§ 17. All provisions of the election law, not inconsistent with this chapter, shall apply with full force to all towns and cities adopting the use of ballot machines.

§ 18. This act shall take effect immediately.

* The chapter referred to was repealed by chap. 809, Laws of 1894.

GENERAL INDEX.

A.

Act,	SEC.	PAGE.
congressional apportionment.....	....	161
elective franchise criminal, or 1892.....	41-41z	168
for apportionment of members of assembly.....	....	178
town meeting ballot .....	....	189
		202
Addition,		
of names on registry list.....	81	....
application for, how made	81	....
to whom made	81	....
when made.....	81	....
where made.....	81	....
Adjournment,		
of county board	182	....
of election, after polls are open	2	....
of state board from day to day	188	....
Affidavit,		
of chairman to be attached to certificate of party nomination	56	....
of secretary to be attached to certificate of party nomination	56	....
Alderman,		
form of poster or list of candidates to be sent to (No. 6)....	....	186
to post printed lists of nominations	62	..
<i>See Nominations.</i>		
Ale or beer,		
no sale of, in room for registry or voting, or adjoining		
thereto.....	10	....
within sixty days before designation.....	10	....
prohibited after designation	10	....
Alteration,		
of election districts.....	8	....
when to take effect	8	..
Amendment,		
notice of submission of.....	6	....
Annotations— See Notes.		

Announcement,		
of result of canvass	55	....
Applicants,		
for registry, challenges to	84	....
by any qualified elector of district	84	....
oath and examination on challenge	84	....
Appointment,		
of ballot clerks.	12	....
by inspectors, etc	12	....
in writing	12	....
to be filed with town clerk	12	....
to fill vacancy	12	....
of ballot clerks for Brooklyn registry	12	....
by whom	12	....
when	12	....
of canvassers	12	....
by whom	12	....
when	12	....
of inspectors for Brooklyn registry	12	....
by whom	12	....
when	12	....
of inspectors of election in cities	12	....
mode of	12	....
of poll clerks.	12	....
by inspectors, etc	12	....
in writing	12	....
to be filed with town clerk	12	....
to fill vacancy	12	....
Apportionment law,		
congressional .....	....	168
legislative .....	....	172
Assembly,		
apportionment of members of .....	....	178
Assembly, members of,		
when special election not to be held to fill vacancies in office of	4	....
Assessments,		
political	41u	166
Assistance in voting	104	....
when and how rendered	104	....

GENERAL INDEX.

209

Assistant,	SEC.	PAGE.
assisted and challenged, report of	84	...
in preparing ballot, duties of.....	104	...
in preparing ballot may be selected by voter.....	104	...
may enter into voting booth with voter.....	104	...
not to influence voter.	104	...
not to reveal name of candidate, etc.....	104	...
to assist voter in preparing ballot... ..	104	...
Attendance at polls,		
furnishing money or entertainment to induce.....	41o	164
Attorney-General,		
is member of state board	188	...
Authority,		
corrupt use of	41u	166
B.		
Ballot-boxes,		
one at each polling-place for ballots cast.....	16	...
additional, for proposed constitutional amendments, etc.	16	...
others for spoiled and mutilated ballots, and detached ballot stubs	16	...
prepared in what manner.....	16	...
size of.....	16	...
to be examined, at opening of polls, by inspectors and watchers	100	...
to remain locked until closing of poll	100	...
what not to be placed in, during election	100	...
Ballot cabinet,		
regulations for use of.....	...	189
		201
towns may authorize use of .....	...	183
Ballot clerks,		
announcement by, on delivery of official ballots	108	...
on return of official ballots.....	108	...
appointment of, in cities	18	...
compensation of.....	18	...
duties of	18	...
designation of.....	11	...
form of certificate of appointment of (No. 10).....	...	187
form of oath of office of (No. 12).....	...	188
general duties of.....	108	...
location	100	...

Ballot clerks—(Continued)

	SEC.	PAGE.
not to deliver ballots to voter until announced to be registered.	108	....
number of.	11	....
order of delivering official ballots to voters.	108	....
position of, within inclosed space.	100	....
qualifications of.	11, 12	....
term of office of.	13	....
to be present at opening of polls.	100	....
to cancel and preserve all returned ballots.	108	....
to deliver no returned ballots to voter.	108	....
to fill vacancy, to take oath of office.	14	....
to inclose returned and retained ballots and stubs in sealed package.	108	....
to make, upon closing of polls, written statement.	108	....
to contain what.	108	....
to whom to deliver such statement and package.	108	....
to preserve all detached stubs.	108	....
to receive detached stubs.	108	....
to receive official and sample ballots.	100	....
vacancies, how filled.	14	....
who deemed a.	100	....

Ballot return,

by whom prepared.	84	....
form of.	84	....

Ballots, official,

name of candidate declining nomination not to be printed on.	64	....
to be provided at public expense. . .	80	....
to be provided for what elections.	80	....

*See Official Ballots.***Ballots, sample—See Sample Ballots.****Ballots, unofficial,**

official distribution of substitutes for missing.	89	....
substituted ballots to be known as.	89	....

Ballots,

at town meetings.	125	....
choice of emblems for.	56	....
delivery of, to voters.	104	....
form of.	81	....
form of, for questions submitted.	82	....
judicial investigation of, objected to as marked for identification.	114	....
marked, when to be excluded on recount.	114	....
mode of procedure, where, is believed to be marked for identification.	114	....
mode of procuring, by voter.	104	....

Ballots — (Continued),	SEC.	PAGE.
number on stub	81	....
official	80	....
to be provided	80	....
used at what elections	80	....
packages of unused, to be filed with county clerk	118	....
when with town, city or village clerk	118	....
when with board of police commissioners	118	....
when with board of elections	118	....
to be preserved for one year	118	....
to be destroyed after that time	118	....
when to be opened and examined	118	....
sample	88	....
size of	81	....
unattached and unvoted, to be destroyed	115	....
when to be destroyed	115	....
Blank forms,		
for election officers	84	....
Board of canvassers,		
duty of, during canvass, where ballot, etc., is believed to be marked for identification	110	....
to exhibit ballots, during canvass, to watchers	110	....
how to be done	110	....
not to alter, in correcting statement, their decision	182	....
to continue in office for purpose of mandamus proceedings	114	....
to correct statement on its return	182	....
to file packages of detached stubs with board of election in Brooklyn	118	....
to file packages of unvoted ballots with same	118	....
Board of elections,		
appointment of election officers	12	....
election districts, creation of	8	....
notice of election	5, 6	....
of Brooklyn, when nominations to be certified to	60	....
to correct errors and omissions in ballots	88	....
when upon order of court or justice	88	....
when voluntarily	88	....
to furnish registration blanks to inspectors	36	....
to have ballots and instruction cards in possession for in- spection	86	....
for what length of time	86	....
to provide and deliver ballots, etc., when	87	....
to provide same for polling places in Brooklyn	86	....
to publish list of nomination of candidates	61	....
<i>See Publication of Nominations.</i>		
to take and file receipts for ballots	87	....

Board of inspectors,	SEC.	PAGE.
certify number of electors enrolled.....	85	....
chairman of, how appointed	14	....
meeting or proceeding of, on Saturday half-holiday legal ..	84	....
organization of.....	14	....
to appoint one of their number chairman.....	14	....
to fill any vacancy	14	....
when all vacant, how filled.....	14	....
to administer oath to applicant for registry on challenge or suspicion	84	....
to examine him in such case ..	84	....
when applicant's name must be added to list of voters.....	84	....
when his name shall not be placed on list.....	84	....
 Board of police commissioners,		
appointment of election officers.....	13	....
election districts, creation of	8	....
to correct errors and omissions in ballots	88	....
when upon order of court or justice	88	....
when voluntarily	88	....
to furnish registration blanks to inspectors	86	....
to have ballots and instruction cards in possession for inspection.....	86	....
for what length of time	86	....
to provide same for polling places in New York city	86	....
to publish list of nomination of candidates.....	61	....
<i>See Publication of Nominations.</i>		
when nominations to be certified to	60	....
 Boundaries,		
of election districts, maps and certificates of.. ..	9	....
 Boxes for unvoted ballots,		
to be examined, at opening of polls, by inspectors and watchers.....	100	....
to remain locked till closing of polls.....	100	....
what not to be placed in, during election.....	100	....
 Bribery,		
of elector in military service of United States	41s	166
 C.		
Canandaigua,		
general election law applicable.....	....	166

	SEC.	PAGE.
Cancellation,		
of names on registry list.....	81	....
application for, how made.....	81	....
to whom made.....	81	....
when made.....	81	....
where made.....	81	....
Candidates,		
statement of expenses, failure to file.....	41w	167
when chosen at primaries by ballot.....	52	....
Canvass,		
at primary, to be publicly announced by secretary... ..	55	....
by county board, how to be made.....	181	....
when to be made.....	181	....
by inspectors, mode of conducting.....	110	....
by state board.....	189	....
false, of ballots cast.....	41n	164
inspectors to show ballots to watchers during, if requested.	110	....
how it must be done.....	110	....
intent of elector.....	110	....
manner of.....	110	....
marked ballots to be counted.....	110	....
method of counting.....	110	....
mode of procedure, when excess of ballots found in ballot-		
box.....	110	....
no adjournment or postponement of, until fully completed	110	....
no ballot without official indorsement to be counted.....	110	....
exceptions thereto.....	110	....
of votes at primaries.....	55	....
of votes by inspectors.....	110	..
preparation for.....	110	....
proclamation of result of.....	112	....
statement of, in cities of first class.....	110	....
delivery to police officer.....	110	....
preservation of.....	110, 111	....
taken to police station.....	110	..
transmission of contents to commanding officer.....	110	....
statement of, by county board.....	184	....
contents of... ..	184	....
number of.....	184	....
to be public.....	110	....
when ballots folded together in ballot-box are to be de-		
stroyed.....	110	....
when to be made.....	110	....
Canvassers,		
organization of county boards of.....	180	....

	SEC.	PAGE
Canvassers of election districts,		
to continue in office for purpose of mandamus proceedings.	118	...
Cards of instruction,		
removal, mutilation or destruction of.....	41e	163
Caucus.		
misdemeanors at	41	161
Certificate,		
attached to statement of canvass.....	111	....
form and execution of	111	....
Certificates,		
corrected, of county boards to be filed	138	....
corrected, of county boards to be in lieu of original	138	....
correction of	66	....
form of, of nomination for ward, town or village office (No. 5) .....	....	135
number of candidates to be placed on, of independent nomination	57	....
of boundaries of election districts in towns.....	9	....
to be filed in town clerk's office	9	....
of election	140	....
to be sent to each person elected.....	140	....
by secretary of state.....	140	....
of independent nomination may designate persons to fill vacancies.....	57	....
of independent nominations, how made	57	....
to be signed by the voters	57	....
what to contain	57	....
of inspectors to be appended to register	35	....
to be attached to minutes as to challenged persons	113	....
of nomination, form of, by party committee (No. 2).....	....	183
by party convention (No. 1) .....	....	181
in county or less (No. 4).....	....	184
under section 57 (No. 8).....	....	183
misconduct in relation to.....	41g	163
objections to	65	....
at what time to be filed	65	....
by whom determined	65	....
in what office to be filed	65	....
notice of, to be given	65	....
when to be filed	59	....
of nominations, where to be filed.....	58	....
of nominations, when to be filed	59	....
of party nomination, to be made.....	56	....
signed by whom.....	56	....
what to contain	56	....
signature to, of independent nomination need not be ap- pended to one paper	57	....

Certification,	SEC.	PAGE.
of nominations.....	60	....
by secretary of state.....	60	....
to board of elections.....	60	....
to county clerk.....	60	....
to police commissioners.....	60	....
what to contain.....	60	....
Chairman,		
of county board of canvassers, to be chosen.....	180	....
of primary, duties of.....	52	....
of primary, duties of.....	54	....
to announce number of votes cast.....	52	....
result of canvass.....	52	....
to decide questions relating to qualifications of voters ..	54	....
to reject votes, when.....	54	....
of primary to sign certificate of party nomination.....	56	....
with affidavit.....	56	....
with place of residence.....	56	....
of primary, when to take oath.....	52	....
when to file statement, oath and poll-list.....	52	....
in what office.....	52	....
Challenge,		
by whom made.....	108	....
form of general oaths on.....	108	....
form of preliminary oath to be administered.....	108	....
how made.....	108	....
may be made at elections to persons whose names are on register.....	88	....
minutes of, to be filed with county clerk.....	117	....
when with town, city or village clerk.....	117	....
oath to be administered to person offering to vote against whom challenge is registered.....	84	....
refusal to take, precludes from voting.....	104	....
perjury.....	84	....
questions to be put to challenged persons.....	108	....
record of.....	84, 108	....
to be entered on list of voters.....	84	....
to be made, how.....	84	....
to be made on oath of elector of district.....	84	....
to be made, when.....	84	....
to applicants for registry.....	84	....
by any qualified elector of district.....	84	....
how made....	84	....
oath and examination on challenge.....	84	....
vote of challenged person to be rejected on refusal to take either general oath.....	108	....

Challenge — (Continued),	SEC.	PAGE.
when general oath to be administered.....	106	....
when, may be made.....	106	....
when vote of challenged person to be rejected.....	106	....
Challengers,		
number of	102	....
position outside of guard-rail	102	....
during what time	102	....
City,		
when election expenses a charge upon.....	18	....
City clerk,		
form of poster or list of candidates to be sent by (No. 6)....	....	186
form of receipt of, for official ballots (No. 14).....	....	188
form of receipt of inspectors to, for official ballots (No. 15). ....	....	189
to correct errors and omissions in ballots.....	88	....
when upon order of court or justice.....	88	....
when voluntarily.....	88	....
to furnish blank books for registering, etc.....	86	....
to give receipt for packages of ballots, etc.....	87	....
to provide and deliver ballots, etc., when	87	....
to take and file receipts therefor	87	....
to publish list of nominations of candidates.....	61	....
<i>See Publication of Nominations.</i>		
Closing,		
polls, times of	8	....
Comptroller,		
copy of statement of county board to be sent to.....	187	....
by whom.....	187	....
when	187	....
within what time.....	187	....
state, is member of state board	188	....
to deliver copy of statement of county board to secretary of state	187	....
Conduct,		
of primary	52	....
Congressional,		
apportionment law .....	....	168
Congressional office,		
form of party committee certificate of nomination for (No. 2) ....	....	182
form of party convention certificate of nomination for (No. 1) ....	....	181

GENERAL INDEX.

217

	SBC.	PAGE.
Consideration,		
giving, for franchise.....	41p	164
receiving, for franchise. ...	41q	165
Constable,		
to execute inspector's order of arrest.....	15	....
Constitution,		
provisions applicable.....	....	170
Constitutional amendment,		
form of official ballot for.....	88	....
notice of submission of.....	6	....
publication of.....	7	....
how and where made.....	7	....
Convention,		
definition of....	50	...
misdemeanors at	41	161
Conviction,		
of infamous crime, voting after	41l	164
Copies,		
certified, of register to be made by inspectors.....	85	....
one copy to be posted by them	85	....
other copies to be retained, one by each of inspectors other than chairman.....	85	....
original and copies to be open for examination and making copies.....	85	....
Correction,		
of clerical errors in election district statements.....	182	.
of errors and omissions in ballots.....	88	....
by whom.	88	...
order for.	88	....
upon whose application.....	88	. ..
of errors by county board, mandamus for	188	....
mode of procedure on.....	188	....
Corrupt use,		
of position or authority.	41v	166
Counties,		
form of certificate of nomination in (No. 4) .....	....	184
when election expenses a charge upon	18	....

County board,	SEC.	PAGE
adjournment of.....	180	....
adjournment of.....	181	....
adjournment of.....	183	....
copies of statement of, to be sent to secretary of state, etc..	187	....
by whom to be done.....	187	....
when.....	187	....
within what time.....	187	....
corrected certificates of, to be in lieu of originals.....	184	....
corrected statements and certificates of, to be filed.....	184	....
corrected statements of, to be in lieu of originals.....	184	....
county clerk to act as secretary.....	180	....
decision of, as to adoption or rejection of propositions, etc.	186	....
decisions of, as to persons elected.....	186	....
mode of procedure for Fulton and Hamilton counties..	186	....
to what offices.....	186	....
deputy county clerk to be secretary of, when.....	180	....
majority of, to constitute quorum.....	180	....
mandamus for correction of errors by.....	183	....
mode of procedure on.....	183	....
meeting of, to correct errors, deemed continuance of regular session.....	188	....
members to take oath.....	180	....
new statements, transmission of.....	184	....
of canvassers, organization of.....	180	....
production of election district statements before.....	181	....
by whom.....	181	....
mode of.....	181	....
when.....	181	....
statements of canvass by.....	185	....
contents of.....	185	....
member of.....	185	....
to canvass votes cast in county.....	181	....
exceptions thereto.....	181	....
when.....	181	....
to certify and file statements of canvass.....	185	....
of canvassers, to choose one of their number chairman.....	180	....
to count marked ballots unless otherwise ordered.....	185	....
what statement to be added.....	185	....
to file and record determinations with county clerk.....	186	....
to reduce to writing and sign determinations.....	186	....
to send back statement for correction of clerical errors or omissions.....	182	....
of canvassers, when and where to meet.....	180	....
of canvassers, who to constitute.....	180	....
County clerks,		
compensation for election services.....	18	....
how fixed.....	18	....

County clerks — (Continued),	SEC.	PAGE.
election laws, transmission of	19	....
form of list of nominations to be published by (No. 7) .....	....	186
form of poster or list of candidates to be sent by (No. 6) ...	....	186
form of receipt from town or city clerk to, for official bal- lots (No. 14) .....	....	188
lists for town clerks and aldermen	62	....
nominations to be certified to	60	....
to be secretary to county board of canvassers	180	....
to distribute ballots and instruction cards	87	....
in separate sealed packages	87	....
how marked	87	....
in what condition	87	....
to whom	87	....
to correct errors and omissions in ballots	88	....
when upon order of court or justice.	88	....
when voluntarily	88	....
to deliver statements of canvass to county board	181	....
to file and record notices of election	5	....
to file and record notice of submission of constitutional amendment, etc.	6	....
to file receipts for packages of ballots, etc.	87	....
to furnish blank registry books, certificates and instructions to city and town clerks	86	....
number of	86	....
when	86	....
to have ballots and instruction cards, etc., in possession for inspection	86	....
for what length of time	86	....
to make and send certified copy of determination of county board to each elected person	186	....
to provide printed ballots and instruction cards, etc.	86	....
to publish determinations of county board	186	....
lists of nominations of candidates	61	....
<i>See Publication of Nominations.</i>		
to receive copy of constitutional amendment in notice of election	6	....
to receive notice of election from secretary of state	5	....
to send certified copy of official canvass to secretary of state, within what time	187	....
to send copy of election laws to each town, village and city clerk, and inspector, in his county	19	....
to send list of names of persons elected to certain offices to secretary of state	187	....
within what time	187	....
to send printed list of nominations to town clerk and alder- man	68	....

	SEC.	PAGE.
Creation,		
of election districts.....	8	....
when to take effect	8	....
D.		
Date,		
of general election.....	2	....
Davis,		
automatic ballot machine.....	....	194-197
Death,		
of person elected to office.....	4	....
Declination,		
of nomination.....	64	....
form of (No. 9) .....	....	187
in what manner made	64	....
to what officer.....	64	....
when to be made	64	....
Delegate,		
when chosen at primaries by ballot.....	59	....
Deputy county clerk,		
when to be secretary of county board of canvassers	180	....
Designation,		
of places for registering and voting....	10	....
subsequent, when may be made.....	10	....
Destruction,		
of election supplies, poll-lists or cards of instruction.....	41e	163
of registry list	41b	163
Detached stubs,		
packages of, filing of.....	118	....
preservation of	118	....
Determination,		
of county boards as to adoption or rejection of propositions, etc	135	....
of county boards as to persons elected.....	136	....
mode of procedure in Fulton and Hamilton counties...	136	....
to what offices.....	136	....
of county board to be filed and recorded with county clerk.	136	....
of county board to be reduced to writing and signed.....	136	....
of objections to certificate of nomination.....	65	....
by whom made.....	65	....
upon what notice.....	65	....
within what time.....	65	....

	SEC.	PAGE.
Disqualification,		
of person elected to office	4	....
Dissent,		
by member of state board	189	....
form of	189	....
to be delivered to and filed and recorded by secretary of state	189	....
Distance markers,		
distribution of	87	....
provision of	86	....
placing of	100	....
Districts,		
creation, division and alteration of	8	....
Division,		
of election districts	8	....
when to take effect	8	....
Duress,		
of voters	41t	166
E.		
Election,		
adjournment of, after polls are open	8	....
for which official ballots shall be provided	80	....
intermission of, after polls are open	8	..
notices of, by secretary of state	5	....
notices of, to be filed and recorded by county clerk	5	....
times of opening polls of	8	....
times of closing polls of	8	....
Election districts,		
creation, division and alteration of	8	....
definition of	8	....
in town including cities	8	....
maps and certificates of boundaries of	9	....
number of voters in	8	....
what are deemed, of town	8	...
when new town or ward shall not be divided into election districts	8	....
Electioneering,		
no, while polls are open	102	....
within what distance	102	....
Election expenses,		
payment of	18	....
what constitutes	18	....
when charge on city, town or village	18	....

	SEC.	PAGE.
Election, general,		
date of	3	....
filling vacancies in elective offices at	4	....
Election laws,		
transmission of, to clerks and election officers	19	...
when and number of copies	19	....
violation of, by public officer	41j	163
Election officers,		
blank forms for	84	....
designation, number, qualification and appointment of ..	11, 12, 13	....
general duties of, as to balloting	103	....
how, and by whom appointed	19	....
in towns	13	....
jury duty, exemption from	13	....
misconduct of	41i	163
misdemeanor	13	....
removal of	13	....
transfer of	13	....
vacancies, supplying.	13, 14	....
Election papers,		
delivery and filing of	118	....
Elective offices,		
filling vacancies in, at general and special elections	4	....
Election, special,		
filling vacancies in elective offices at	4	....
how called, to fill vacancies	4	....
when not held as required by law	4	....
when not to be held to fill vacancy	4	..
Election supplies,		
removal, mutilation or destruction of	41e	163
Elections,		
misdemeanor in relation to	41k	163
refusal to permit employes to attend	41f	163
Electoral college,		
meeting and organization of	163	....
when held	163	....
Electors,		
compensation of	167	....
how audited and paid	167	....

Electors — (Continued),	SEC.	PAGE.
of president and vice-president, when and how chosen.....	161	....
to furnish other lists of persons voted for.....	166	....
to make lists of persons voted for	164	....
how certified.....	164	....
what to contain	164	....
secretary of state to furnish list of electors ..	163	....
vote of, for president and vice-president.....	164	....
to be taken by ballot.....	164	....
form of ballot	164	....
Emblems,		
choice of.....	56, 57	....
Employees,		
allowance of time for, to vote.....	109	....
for what length of time.....	109	....
may be designated by employer.....	109	....
no deduction in salary to be made	109	....
no penalty to be imposed	109	....
refusal to permit, to attend election.....	41f	163
Entertainment,		
furnishing, to induce attendance at polls	41o	164
Errors,		
correction of, in ballots, how made.....	88	....
clerical, correction of, in election district statements.....	182	....
mandamus for correction of, by county board.....	186	....
mode of procedure on	182	....
Examination,		
oath taken at primary to be open to.....	52	....
of applicant for registry on challenge	84	....
of register and certified copy thereof.....	82	....
poll-lists kept at primary to be open to	52	....
statement of result of primary to be open to.....	52	....
Expenses,		
failure to file candidate's statement of.....	41w	167
F.		
Failure,		
to file candidate's statement of expenses.....	41w	167
False canvass,		
of ballots cast	41w	167
False registration.....	41a	163

False statement,		
of result of canvass	41n	164
Felony,		
illegal or double registry a.	33	....
marking ballot	110	....
tearing or defacing ballot	110	....
Flatbush,		
election districts .....	....	186
Flatlands,		
election districts .....	....	186
Folding,		
of official ballot, mode of	106	....
when and where done	106	....
Franchise,		
giving consideration for.	41p	164
receiving consideration for.	41q	165
Furniture,		
for places of registry and voting	10	....
G.		
General election,		
date of	3	....
filling vacancies in elective offices at	4	....
Governor,		
copy of statement of county board to be sent to	137	....
by whom	137	....
when	137	....
within what time.	137	....
to deliver copy of statement of county board to secretary of state	137	....
to order special elections	4	....
Guard-rail,		
at each polling place	17	....
boxes and official ballots to be kept within, during election.	101	....
challengers to remain just outside of	103	....
construction and location of	17	....
voter cannot pass, but once, to vote	106	....
voters may enter within, to vote	103	....
in what number at one time	103	....
what ballots to be delivered to voter within	103	....
who to be admitted within, during election	101	....

H.

House-dwellers,		
refusal of, to answer inquiries.....	41d	162

I.

Identification,		
judicial investigation of ballots objected to as marked for..	114	....
procedure during canvass where ballot, etc., is believed to be marked for.....	110	....
Illiterate voter,		
assistance to.....	104	....
Independent nominations,		
mode of making.....	57	....
number of voters required to make.....	57	....
signatures to certificate of, need not all be appended to one paper.....	57	....
to be made by certificate.....	57	....
<i>See Certificate.</i>		
what are.....	57	...
Indorsement,		
on official ballots.....	81	....
for excise commissioners.....	81	....
for town.....	81	....
Infamous crime,		
voting after conviction of.....	411	164
Inhabitant,		
of another state or country, voting by.....	41m	164
Inspectors of election,		
must take oath of office.....	15	....
appointment of.....	12	...
appointment of, in cities.....	12	....
appointment of additional.....	....	188
canvass of votes by.....	110	....
compensation for filing papers.....	18	....
compensation of.....	18	...
delivery and filing of papers.....	117	....
designation of.....	11	....
duties of, as to challenging.....	108	....
duties of, at opening of polls.....	100	....
duty of, during canvass, where ballot, etc., is believed to be marked for identification.....	110	....
duty of town.....	....	181
election of.....	....	182

Inspectors of election — (Continued),

	SEC.	PAGE.
eligibility	183	183
form of oath of office for (No. 18).....	188,141	188,141
form of receipt of, for official ballots (No. 14).....	189	189
general duties of, in connection with the balloting	108	108
in cities, term of office.....	12	12
includes inspectors appointed to fill vacancies	12	12
in counties of more than 600,000 inhabitants	183,183	183,183
may appoint electors to assist in preserving order, etc	15	15
may direct sheriff or constable to arrest for disorderly conduct in their presence or hearing.....	15	15
meeting of, for registry.....	80	80
number of	80	80
time of holding.....	80	80
meetings, public.....	15	15
time of opening and closing.....	80	80
not more than two for one district, to belong to same political party	11	11
not to alter, in correcting statement, their decision	183	183
number of	11	11
one of, to make proclamation of opening of polls	100	100
one of, to announce hour for closing polls	100	100
position of, within inclosed space	100	100
power to preserve order.....	15	15
power to prevent and suppress riots, etc	15	15
preservation of order by, at elections.....	15	15
qualification of	11	11
shall not be absent from meetings for registration.....	80	80
return and statement of canvass.....	84	84
term of office of	184	184
to append certificate to register	83	83
to appoint ballot and poll clerks.....	12	12
mode of appointment.....	12	12
when	12	12
to attach official ballot to statement of canvass	111	111
to attach other ballots thereto.....	111	111
to continue in office for purpose of mandamus proceedings.....	114	114
to correct clerical errors or omissions in statement on return thereof.....	182	182
to deliver certified statement to supervisor.....	118	118
when to assessor.	118	118
to deliver copy of election laws to successor.....	19	19
to examine challenged person.....	106	106
to file certified copy of original statement with county clerk	118	118
to file certified copy of original statement with town or city clerk	118	118

GENERAL INDEX.

227

Inspectors of election — (Continued),

	PAGE.	PAGE.
to file minutes of challenges and assisted voters with county clerk	118	....
to file packages of detached stubs with county clerk.	118	....
with board of police commissioners in New York city..	118	....
to file packages of unvoted ballots with county clerk	118	....
to file poll-list, register and three certified copies thereof with town or city clerk	117	...
to file tally sheet	118	....
to give receipt for packages of ballots, etc.	87	....
to keep minutes of challenged persons	108	....
to make and attach certificate thereto	108	....
form of	108	....
to make and certify original statement of canvass	111	....
manner of making same	111	....
preservation of	111	....
what to contain	111	...
when to be made	111	....
to make certified copies of original statement of canvass, when	111	....
to make proclamation of result of canvass	118	...
mode of making	118	....
what to contain	118	....
when to be made	118	....
to point out to challenged person, deficient qualifications ..	108	....
to prepare, at meetings for registry, a register of voters....	83	....
mode of arrangement	83	....
of preparation	83	....
to show ballots, during canvass, to watchers, if requested..	110	....
how it must be done	110	....
town .....	..	128
vacancies, how filled	127	....
in office of, after opening of polls, how filled	14	....
when appointed on division of town or ward into election districts	8	....
when election of, after division of town or ward into election districts	8	....
when may depute person to execute order of arrest	15	....
how made	15	....
when to cause use of unofficial ballots	89	....
who deemed to be, of an election district	100	....

Instruction cards,

not to be taken down, torn or defaced during election	100	....
number of, to be provided	84	....
what to contain	88	....
to be posted, at opening of polls, in voting booths	100	...
number in each	100	....

Instructions for registry,	SEC.	PAGE.
to be furnished by secretary of state to county clerk.	86	...
by county clerk to board of inspectors.....	86	....
Intent of electors	110	....
rules for ascertaining on canvass.....	110	....
Intermission,		
of election, after polls are open.....	3	....
Intimidation,		
of elector in military service of United States.....	41a	106
of voters.....	41t	106
Intoxicating liquors,		
no sale of, in room for registry or voting, or adjoining thereto.	10	....
within sixty days before designation.....	10	....
prohibited after designation.....	10	....
Investigation,		
judicial, of ballots objected to as marked for identification.	114	....
judicial, of ballots.....	114	....
J.		
Judicial office,		
form of party committee certificate of nomination for (No. 2).	....	182
form of party convention certificate of nomination for (No. 1).	....	181
L.		
Lansingburgh,		
appointment of inspectors, etc., in.....	....	183
Laws repealed by chap. 630 of 1893	166	....
Legislative,		
apportionment law.....	....	173
List,		
for town clerks and aldermen	63	....
form of, of candidates to be sent to town clerk, etc. (No. 6).	....	186
form of, of nominations to be posted (No. 8).....	....	188
form of, of nominations to be published (No. 7).....	....	186
Lists,		
of registry list	41b	162

M.

	SEC.	PAGE.
Mandamus,		
certain officers to continue in office for purpose of.....	114	....
for correction of errors by county boards	188	....
mode of procedure on.....	188	....
may issue, in case of marked ballots....	114	....
at whose instance.	114	....
to what officer.....	114	....
within what time.....	114	....
to compel canvass.	184	....
Manner,		
of voting.....	106	....
Maps,		
of boundaries of election districts of ward	9	....
to be made.....	9	....
to be open for inspection	9	....
to be posted.....	9	....
Marked ballot,		
to be counted by county board, unless otherwise ordered...	184	....
what statement to be added	184	....
to be indorsed.....	110	....
with what words.....	110	....
Mayor of Albany,		
when to form part of state board.....	188	....
Meetings,		
for registry on Saturday half-holiday....	84	....
of inspectors for registry	80	....
number of.....	80	....
times of holding.....	80	....
times of opening and closing	80	....
Members of Assembly,		
apportionment of.....	....	178
when special election not to be held to fill vacancies in office of.....	4	....
Messenger,		
appointment of.....	165	....
duties of	165	....
Military service,		
bribery of elector in, of United States.....	41s	166
intimidation of elector in, of United States.....	41s	166

	SUB.	PAGE.
Minutes,		
as to persons challenged	108	....
certificate of inspectors thereto	108	....
contents of.....	108	....
of challenges, to be filed with county clerk.....	117	....
when to be filed with town, city or village clerk	117	....
Misconduct,		
in relation to certificates of nomination	41g	163
in relation to official ballots.....	41g	163
of election officers	41i	163
of members or clerk of registry board	41c	163
of watchers	41i	163
Misdemeanor,		
at political caucuses and conventions.....	41	161
election officers.....	12	....
in relation to elections.....	41k	163
Money,		
furnishing, to induce attendance at polls.....	41o	164
Mutilation,		
of election supplies, poll-lists or cards of instruction	41e	163
of registry list.....	41b	163
Myers automatic ballot machine.....	189-198	191
N.		
Names,		
on registry list, addition and cancellation of.....	33	....
Naturalization papers,		
production of, to registry board.....	34	....
Neglect,		
to deliver official ballots	41h	163
New Utrecht,		
election districts.....	....	183
New York,		
times of opening and closing polls	2	....

Nomination,	SEC.	PAGE.
certificate of, by secretary of state	60	...
declination of.....	64	...
in what manner made	64	...
to what officer.....	64	...
when to be made.....	64	...
filling vacancies in.....	66	...
by whom.....	66	...
in what manner	66	...
what certificate to contain	66	...
to be executed and sworn to	66	...
when to be filed	66	...
where to be filed.....	66	...
form of certificate of, for ward, town or village (No. 5) ....	....	185
form of declination of (No. 9) .....	....	187
form of list of, to be posted (No. 8).....	....	187
form of list of, to be published (No. 7).....	....	186
independent.....	57	...
objections to certificates of, to be filed.....	65	...
at what time	65	...
in what office	65	...
notice of, to be given.....	65	...
party	56	...
places of filing certificates of	58	...
printed list of, to be posted	63	...
by whom	63	...
for what length of time	63	...
in what manner.....	63	...
what to contain	63	...
where.....	63	...
publication of	61	...
by whom	61	...
for what length of time.....	61	...
in what manner	61	...
what to contain	61	...
times of filing certificates of	59	...
town, posting of.....	63	...
by whom	63	...
for what length of time	63	...
in what manner.....	63	...
what to contain	63	...
village, posting of.....	63	...
by whom	63	...
for what length of time	63	...
in what manner	63	...
what to contain	63	...
where certificates of, to be filed.....	58	...
when certificates of, to be filed	59	...

Notices,	SEC.	PAGE.
of declination of nomination.....	64	....
by whom given	64	...
how given	64	....
to whom given	64	....
of elections by secretary of state.....	5	....
of election, to be filed and recorded by county clerk.....	5	....
of election, what to contain.....	5	....
of filing objections to certificate of nomination	65	..
by whom given	65	....
in what manner given.....	65	...
to whom given	65	....
of primary, how given.....	51	....
when to be posted	51	....
when to be published.....	51	....
time and manner.....	51	....
of submission of proposed constitutional amendment or other proposition	6	....

O.

Oaths,		
ballot clerk must take	18, 14	....
form of, in case of physical disability (No. 15) .....	....	189
to be administered to applicant for registry	7	...
may be put to challenged voter at primary.....	54	....
must be administered to applicant for registry on challenge	84	...
necessary to procure aid in preparing ballot.....	104	....
contents of.....	104	....
of appointed or designated inspectors	14	....
to be filed, where and when.....	18	....
to be taken by ballot clerks	18	....
by canvassers	18	....
of office to be taken by inspectors.....	18	....
by poll-clerks.....	18	....
by registrar	18	....
official .....	....	184
penalty for failure to take and file	19	....
poll-clerk must take	18, 14	....
to be administered at election to person against whom chal- lenge is registered.....	84	....
refusal to take, precludes from voting.....	104	....
to be administered to chairman of county board of can- vassers.....	130	....
to be administered to members of county board of can- vassers	130	....
to be administered to secretary of county board of can- vassers	180	....
town inspectors .....	....	184

Objections,	SEC.	PAGE.
to certificates of nomination	65	....
to be filed	65	....
when	65	....
where	65	....
to be in writing	65	....
Offices, elective,		
filling vacancies in, at general and special elections.....	4	....
Officers,		
of primaries, when chosen by ballot.....	52	....
qualifications for holding.....	....	128
Official ballots,		
all delivered together to one voter to have same printed number on stubs.....	104	....
correction of errors and omissions in	88	....
by whom	88	....
order for.....	88	....
delivery of, to electors.....	104	....
disposition of, after canvass.....	111	....
distribution of, to polling places	87	....
by whom.....	87	....
in separate sealed packages	87	....
in what condition	87	....
to whom.....	87	....
elections for which, shall be provided	80	....
form of, for candidates for office.....	81	....
kind of type.....	81	....
quality and tint of ink.....	81	....
quality and tint of paper	81	....
size of	81	....
form of, for constitutional amendments.....	88	....
form of, for submission of proposition or question.....	88	....
how different terms of same office to be designated on.....	81	...
how full term and vacancy in congressional district desig- nated on	81	...
indorsements on	81	....
in what shape to be delivered to voter	104	....
judicial investigation of	114	....
how made.....	114	....
may be returned to ballot clerks before voting	105	....
may be subsequently procured, second set of	105	....
but not more than three sets in all.....	105	....
misconduct in relation to	41g	162
mode of arrangement of names on.....	81	....
mode of folding.....	104, 106	....

Official ballots — (Continued),	SEC.	PAGE.
mode of procedure, when one of, spoiled	106	....
must be returned by voter before passing outside of guard-rail	106	....
name of candidate, declining nomination, not to be placed on	64	....
names of candidates on	81	....
names of officers and candidates on	81	....
neglect or refusal to deliver	41h	102
no portion of a full set of, to be delivered to voter	103	....
not more than three sets of, to be delivered to voter	104	....
not to be folded outside of voting booth	106	....
number of, for each polling place	85	....
official distribution of substitutes for, missing	89	....
in what cases to be done	89	....
upon what proof	89	....
preparation of, for voting	105	....
preservation of, after canvass	111	....
split, how voted	81, 105	....
straight, how voted	81, 105	....
to be delivered to voters in numerical order	104	....
to be provided at public expense	80	....
what marks render void	81	....
when and where to be folded	106	....
when no nomination made	81	....
when voter entitled to assistance in preparing	104	....
where name to be written on	105	....
who to provide	86	....
 Omissions,		
correction of, in ballots	88	....
correction of, in election district statements	132	....
mode of making	132	....
 Opening,		
polls, times of	3, 100	....
 Order,		
preservation of, by inspectors at elections	15	....
at their meetings	15	....
 Organization,		
of county boards of canvassers	130	....
of primary	52	....
of state board of canvassers	133	....
	<i>See State Board.</i>	
 Original statement,		
of canvass	111	....

P.	SEC.	PAGE.
Pardon .....	....	184
Party,		
how to be designated in certificate of independent nomination.....	57	....
to be designated in certificate of nomination in not more than five words	56	....
Party nominations,		
what are	56	....
Pasters,		
description of	66	...
duty of ballot clerks in regard to.....	66	....
number to be furnished.....	66	....
to be delivered to ballot clerks by inspectors.....	66	....
to be official ballot.....	66	....
to be receipted for.....	66	....
use of, when felony.....	66	....
what to contain	66	....
when to be used.....	66	....
who to furnish	66	....
Payment,		
of election expenses	18	....
Perforated line,		
on official ballot.....	81	....
Places for registry,		
designation of.....	10	....
furniture for	10	....
Places for voting,		
designation of.....	10	....
furniture for	10	....
Police commissioners—See Board of Police Commissioners.		
Political assessments	41u 41v	166
Poll-books,		
delivery of previous to inspectors	86	....

	SEC.	PAGE.
Poll clerks,		
appointment of.....	11, 12	....
by whom.....	12	....
compensation of.....	12	....
designation of.....	11	....
form of oath of office of (No. 12).....	...	128
general duties of.....	103	....
number of.....	11	....
oath of office.....	12	....
position of, within inclosed space.....	100	....
qualifications of.....	12	....
term of office of.....	11	....
to be present at opening of polls.....	100	....
to fill vacancy, to take oath of office.....	14	....
to have poll-list book present at opening of polls.....	100	....
vacancies, how filled.....	14	....
Poll-lists,		
certified copy of previous, to be delivered to inspector of new election district.....	86	....
how kept.....	103	....
previous, to be delivered to inspectors.....	86	....
removal, mutilation or destruction of.....	41e	103
to be delivered to board of inspectors.....	86	....
to be filed with town or city clerk.....	113	....
when with village clerk.....	113	....
Polling places,		
arrangement of.....	10	....
diagram of.....	....	100
not more than one, in same room.....	10	....
Polls,		
opening of.....	100	....
at what place.....	100	....
what to be provided.....	100	....
who to be present at.....	100	....
times of closing of.....	8	....
opening of.....	8	....
Position,		
corrupt use of.....	41v	106
Poster,		
form of, of candidates, to be sent to town clerk, etc. (No. 6)....	....	126

Primary,	SEC.	PAGE.
canvass of votes at.....	55	....
chairman and other officers, when to take oath.....	52	....
candidates, delegates and officers of, when to be chosen by ballot	52	....
definition of.....	50	....
duties of chairman at.....	54	....
meeting of, when to be held open for voting not less than one hour	52	....
notice of, how made.....	51	....
organization and conduct of	52	....
qualifications of voters at	53	....
secretary to announce result of canvass.....	55	....
tellers, when to be appointed at	52	....
to be organized by appointment of chairman and secretary.	52	....
watchers at, rights of.....	55	....
watchers, when to be appointed at	52	....
when additional requirements to be complied with.....	52	....
when to be opened.....	51	....
 Proclamation,		
of opening and closing polls	100	....
of result of canvass.....	112	....
how to be made	112	....
when to be made.	112	....
of special election by governor.....	4	....
of special election, to be published	5	....
when and how long	5	....
 Proposition,		
notice of submission of, to vote	6	....
publication of.....	7	....
how and when made	7	....
 Prosecution,		
testimony upon.....	41r	165.
 Protest,		
by member of state board.....	188	....
form of	188	....
to be delivered to and filed and recorded by secretary of state	188	....
 Public officers,		
violation of election law by.....	41j	168.

Publication,	SEC.	PAGE.
of boundaries of election districts	9	....
of concurrent resolutions	7	....
of nominations	61	....
by whom	61	....
for what length of time.....	61	....
in what manner.....	61	....
what to contain	61	....
of proposed constitutional amendments.....	7	....
of propositions to be submitted.....	7	....
of registry and polling places.....	10	....
 Public instruction,		
annual meetings and elections .....	....	187
 Public records,		
papers of primary to be.....	53	....
 Q.		
Qualifications,		
of voters at primaries.....	53	....
for holding office.....	....	181
 Quorum,		
majority of county board of canvassers to constitute	130	...
of state board of canvassers.....	168	....
any three officers of, to constitute.....	168	...
 R.		
Receipts,		
for packages of ballots, etc., to be given by inspectors.....	87	....
to be filed with clerk.....	87	....
to specify number and kind of package.....	87	...
for packages of ballots to be given by town and city clerks.	87	....
to be filed with county clerk	87	....
to specify number and kind of package.....	87	....
 Record,		
of challenges.....	34	...
 Recorder of Albany,		
when to form part of state board.....	128	....
 Refusal,		
of house-dwellers to answer inquiries	41d	163
to deliver official ballots	41h	163
to permit employes to attend election.....	41f	163

Register,	SEC.	PAGE.
certified copies of previous, to be delivered to inspectors of new election district	36	....
certified copies of, to be made by inspectors	35	....
one copy to be posted by them	35	....
other copies to be retained, one by each of inspectors other than chairman	35	....
original and copies to be accessible for examination and making copies thereof	35	....
previous, to be delivered to inspectors	36	....
to be certified by inspectors.	35	....
to be filed with town or city clerk.....	118	....
when with village clerk.	118	....
to remain in custody of chairman of inspectors, until close of polls on election day....	35	....
three certified copies of, to be filed with town or city clerk.	118	....
when with village clerk.....	118	....
of voters	33	....
mode of arrangement	33	....
preparing.	33	....
delivery of.....	36	....
quadruplicate	33	....
where filed after canvass	35	....
Registry books,		
to be prepared by secretary of state.....	36	....
to be transmitted to county clerk	36	....
number of	36	....
Registry certificates,		
to be furnished by secretary of state to county clerk	36	....
to be furnished by county clerk to board of inspectors.....	36	....
Registration,		
delivery of blank books, etc., for.....	33	....
method of	33	....
Registry,		
addition and cancellation of names on	31	....
application to add to or strike from list, how made	31	....
to whom made	31	....
when made	31	....
where made.	31	....
as condition of voting	104	....
challenges to applicants for.....	34	....
false	41a	163
meeting for revision of	30	....
meetings for, on Saturday half-holidays.....	34	....

Registry — (Continued),	SEC.	PAGE.
meetings of inspectors for	80	....
number of	80	....
times of holding.	80	....
times of opening and closing	80	....
method of registration.....	83	....
naturalization papers.....	84	....
of challenges.....	84	....
to be made how	84	....
to be made on oath of elector of district.....	84	....
to be made when	84	....
places for, designation of	10	....
furniture for.....	10	....
publication of places for holding.....	10	....
quadruplicate register	83	....
qualification of voters for.....	....	187
Registry lists,		
mutilation, destruction or loss of	41b	163
Registry officers,		
misconduct of.....	41c	163
Removal,		
of election supplies, poll-lists or cards of instruction.....	41e	163
Report,		
of assisted and challenged electors	84	....
Representatives,		
in congress, when and how chosen.....	160	....
resignation of, how effected.....	160	....
vacancy in office of, how notice of, given to secretary of state	160	....
Representative in congress,		
when special election not to be held to fill vacancies in office of.....	4	....
Residence,		
changes in, in same district, how made.....	84	....
Resolutions,		
publication of	7	....
how and where made....	7	....
Rochester,		
inspectors of election in.....	....	177

Room,	SEC.	PAGE.
for registry and voting	10	....
accommodation	10	....
designation	10	....
location	10	....
size	10	....
S.		
Sample ballots,		
correction of errors and omissions in	88	....
by whom.....	88	....
order for... ..	88	....
distribution of.....	87	....
form of	88	....
number of, to be provided	88	....
when voter may take, in voting booth.....	104	....
who to provide.....	86	....
Saturday half-holiday,		
meetings for registry on.....	84	....
School commissioners,		
record of election to be made in secretary of state's office ..	140	....
Secretary,		
of county board of canvassers, to take oath	180	....
of county board of canvassers, who to be.....	180	....
of primary, to announce vote and result of canvass.	55	....
of primary, to sign certificate of party nomination	56	....
with affidavit	56	....
place of residence	56	....
of primary, with tellers, to examine ballot-boxes	55	....
Secretary of state,		
copy of statement of county boards to be sent to	187	....
by whom to be done.....	187	....
when	187	....
within what time.....	187	....
duty of, as to constitutional amendment	6	....
duty of, as to publication of proposed constitutional amend- ments, etc.....	7	....
duty of, in preparing and sending blank registry books, certificates and instructions to county clerk	86	....
duty of, when vacancies in nominations have been filled... ..	66	....
election law, compilation and transmission of	19	....
is member of state board	188	....
notices of elections by	5	....

Secretary of State — (Continued),	SUB.	PAGE.
to appoint meeting of state board	138	....
at what place	138	....
at what time	138	....
to certify nominations	60	....
to furnish electoral college with lists of electors, etc	163	....
how certified	163	....
when	163	....
to make and send certified copy of statement of state board		
to each elected person	140	....
to make and send general certificate of election to house of		
representatives	140	....
at what time	140	....
contents of	140	....
to make and transmit notice of special election	5	....
to notify each member of meeting of state board	138	....
to obtain and file copies of statement of county board from		
governor and comptroller	187	....
to record in his office names of elected county officers	141	....
what such record to contain	141	....
 Senatorial office,		
form of party committee certificate of nomination for (No. 2) .....	....	183
form of party convention certificate of nomination for		
(No. 1) .....	....	181
 Senator, state,		
when special election not to be held to fill vacancies in		
office of	4	....
 Sheriff,		
to execute inspector's order of arrest	15	....
 Special elections,		
filling vacancies in elective offices at	4	....
how called, to fill vacancies	4	....
when not held as required by law	4	....
when not to be held to fill vacancy	4	....
 State,		
act dividing, into congressional districts .....	....	166
form of party committee certificate of nomination for,		
office (No. 2)	183	....
form of party convention certificate of nomination for,		
office (No. 1)	181	....

State board,	SEC.	PAGE.
any number may dissent or protest	189	....
form of such dissent or protest	189	....
to be delivered to and filed and recorded by secretary of state	189	...
canvass by	189	....
may adjourn from day to day	188	....
meeting of, to be appointed by secretary of state	188	....
when to be held	188	....
where to be held	188	....
of canvassers, organization of	188	....
who to constitute	188	....
quorum of	188	...
any three officers of, to constitute	188	....
proceedings upon corrected statements	184	....
court may compel board to act upon	184	....
to reconvene	184	....
 State engineer and surveyor,		
is member of state board	188	....
 Statements,		
certified copies of, to be produced before county board of canvassers	181	....
certified copy of, to be delivered to town or city clerk	118	....
certified copy of, to be filed with county clerk	118	....
certified, to be delivered to supervisor	118	....
when to assessor	118	...
certified, when to be filed with town, village or city clerk ..	118	...
copy of, of county boards to be sent to secretary of state, etc.	187	....
corrected, of county board to be filed	184	....
corrected, of county board to be in lieu of original	184	....
correction of clerical errors in election district	182	....
failure to file candidate's, of expenses	41w	167
false, of result of canvass	41n	164
of canvass by county board	185	....
contents of	185	....
number of	185	....
of canvass to be certified by inspectors	111	....
of canvass to be made by inspectors	111	....
mode of procedure in making	111	....
what to be attached	111	....
what to contain	111	....
of county board to be certified	185	...
manner of	185	....
of county board to be filed and recorded with county clerk.	185	....

Statements — (Continued),	SEC.	PAGE.
of state board of canvassers	189	....
form and contents.....	189	....
to be delivered to and recorded by secretary of state...	189	....
to be separate.	189	....
statement and return of votes for officers	84	....
to be produced before county board of canvassers.....	181	....
when certified copies of certified, to be made.....	111	....
State senator,		
when special election not to be held to fill vacancies in office of	4	....
Stationery,		
distribution of	87	....
of what to consist.	88	....
who to provide.	86	....
Stubs,		
of official ballots	81	....
to be numbered on back.....	81	....
what to be printed on face....	81	....
packages of detached, to be filed with county clerk.....	118	....
when with town, city or village clerk.....	118	....
when with board of police commissioners	118	....
when with board of elections.	118	....
to be preserved six months..	118	....
to be disposed of, how.....	118	....
when to be opened and examined.....	118	....
Supplies,		
for voting booths, by whom furnished.....	10	....
T.		
Tally sheets,		
form of	84	....
Tellers,		
of primary, with secretary, to examine ballot-boxes.....	55	....
when to be appointed at primary	53	....
Testimony,		
upon prosecution	41r	165
Time,		
of holding general or special elections to fill vacancies in elective offices.....	4	....

Title,	SEC.	PAGE.
name of law.....	1	....
Town,		
form of certificate of nomination in (No. 5) .....	....	185
may authorize use of ballot-cabinet .....	....	182
in what manner .....	....	182
when election expenses a charge upon.....	18	....
Town board,		
duties of, as to certificates of boundaries of election districts	9	....
to file same in town clerk's office.....	9	....
duties of, as to designating places for registry and voting..	10	....
duties of, as to division of town into election districts.....	8	....
duties of, as to providing furniture and supplies for polling places at election	10	....
when to deliver ballot and other boxes and keys to inspectors.	10	....
Town clerks,		
compensation for election services.....	18	....
how fixed	18	..
form of list of nomination to be posted by (No. 8).....	....	187
form of poster or list of candidates to be sent to (No. 6)....	....	186
form of receipt of, for official ballots (No. 13).....	....	188
form of receipt of inspectors to, for official ballots (No. 14).	...	188
to correct errors and omissions in ballots	88	..
when upon order of court of justice	88	....
when voluntarily.....	88	....
to deliver packages of ballots, etc., to inspectors.....	87	....
unopened and with seals unbroken.....	87	....
to file receipt therefor	87	..
to furnish registration blanks, etc., to inspectors.....	86	....
to give receipt for packages of ballots, etc.....	87	....
to post copies of list of nominations	68	....
to post printed lists of nominations	68	....
<i>See Nominations.</i>		
to provide and deliver ballots, etc., for town meetings	87	..
to take and file receipts therefor.....	87	....
Town law,		
amendment of.....	....	189,201
Town meeting,		
act to provide for use of Myers' automatic ballot cabinet...	....	182
act to secure independence of voters at.....	....	189,202
act to secure secrecy of ballot at ..	....	189,202
ascertainment of results .....	....	189,202
how made declared .....	...	189,202

Town meeting — (Continued),

	SEC.	PAGE.
ballot, description of.....	189,	202
form of	189,	202
material of.....	189,	202
ballot cabinet, towns may authorize use of	189,	202
cabinets, regulations for use of.....	189,	202
canvass of votes.....	189,	202
description of ballot	189,	202
form of ballot for ballot cabinet	189,	202
in counties of more than 600,000 inhabitants	189,	202
towns may authorize use of ballot cabinet.....	189,	202
regulations for use of cabinets.....	189,	202

Treasurer,

state, is member of state board	189
---------------------------------------	-----	------

U.**United States,**

bribery or intimidation of elector in military services.....	41a	168
--	-----	-----

Unofficial ballots,

form of ..	89	....
substituted ballots to be known as.....	89	....
when, may be voted.....	89,100	....

Unused ballots,

filing of.....	118	....
preservation of	118	....

V.**Vacancies,**

filing, in elective offices at general and special elections....	4	....
in certificate of independent nomination, how to fill.....	57	....
in nominations, filing of	66	....
by whom.....	66	....
in what manner	66	....
in office of inspector or canvasser, how filled	14	....

Violation,

of election law by public officer.....	41j	168
--	-----	-----

Village,

form of certificate of nomination in (No. 5)	189	....
when election expenses a charge upon.....	18	....

	SEC.	PAGE.
Village clerk,		
form of list of nominations to be posted by (No. 8) .....	....	187
to correct errors and omissions in ballots	88	....
when upon order of court or justice	88	....
when voluntarily	88	....
to give receipts for packages of ballots, etc.	87	....
to post copies of list of nominations	68	....
to provide and deliver ballots, etc., when	87	....
to take and file receipts therefor	87	....
Voters,		
cannot pass guard-rail more than once to vote	106	....
duress or intimidation of	41t	166
form of oath of, in case of physical disability (No. 15) .....	....	189
illiterate and disabled	84	....
may enter within guard-rail to vote	104	....
number at any one time	104	....
may return ballots to ballot clerks and pass outside of guard-rail	106	....
mode of procuring ballots by	104	....
must return all official ballots before passing outside of guard-rail	106	....
not more than one to occupy booth at same time	105	....
not to divulge name of candidate voted or to be voted for within polling place	104	....
not to occupy voting booth more than five minutes, when ..	105	....
not to remain within guard-rail after voting	106	....
qualifications of	84	....
qualifications of, at primaries	58	....
qualifications of .....	....	127
residence for voting	84	....
residence, change of	84	....
right to vote not to be denied .....	....	186
to prepare ballots in voting booth	105	....
to receive no help in preparing ballots	104	....
to write names on official ballot only in voting booth	105	....
when entitled to assistance in preparing ballot	104	....
when entitled to receive ballots from ballot clerks.	104	....
who entitled to vote .....	....	128
who not entitled to vote .....	....	128
who qualified to have name placed on register	84	....
Voting,		
after conviction of infamous crime	411	164
by inhabitant of another state or country	41m	164
manner of	106	....
places for, designation of	10	....
furniture for	10	....

Voting — (Continued),	SEC.	PAGE.
registry as condition of	104	....
voter to hand ballot to be voted to ballot-box inspector.....	106	....
voter to hand unvoted ballots to inspector of such box.....	106	....
Voting booths,		
location of .....	....	160
number of, in each polling place	17	....
not less than one for every seventy-five voters.	17	....
not to be occupied by more than one voter at same time ...	105	....
not to be occupied more than five minutes, when.....	105	....
sample ballots may be taken into.....	104	....
size, arrangement and supplies....	17	....
to be kept lighted while polls open	17	....
voter to enter into, to prepare ballots.....	105	....
	W.	
Ward,		
form of certificate of nomination in (No. 5).....	....	185
Watchers,		
appointment of.....	102	....
by whom made	102	....
mode of.....	102	....
at primaries	55	....
ballot-boxes at primaries to be examined in presence of ...	55	....
inspectors to show to, ballots during canvass, if requested..	110	....
mode of doing so.....	110	....
may be present at polling place within guard-rail.....	102	....
during what time	102	....
may be present at primary from commencement to close...	55	....
may declare belief that ballot, etc., is marked for identifica-		
tion	110	....
at what time	110	....
mode of procedure in each case.	110	....
misconduct of.. ..	411	163
when to be appointed at primary	52	....
Westchester,		
times of opening and closing polls.	8	....

INDEX TO FORMS.

	NO.	PAGE.
Forms.....		181-161
A.		
Appointment,		
certificate of, of ballot clerks.....	10	187
of additional inspectors.....	17	140
	20	142
B.		
Ballot,		
general form of	50	161
Ballot clerks,		
certificate of appointment of.....	24, 25	187
		418
certificate of, of ballots cast.....	12	188
oath of office of	12	188
Ballot return,		
form of	35	148
C.		
Canvass,		
statement of.....	36	151
Certificate,		
convention, of nomination in county or less	4	184
nomination, in divisions less than a State—See note on page.		189
nomination, otherwise than by convention, etc., section 57.	3	183
of appointment of ballot clerks.....	10	187
of nomination for ward, town or village office.....	5	185
of registration.....	32	148
party committee, of nomination for office in division or dis-		
trict greater than county	2	182
party convention, of nomination for office in division or dis-		
trict greater than county	1	181
registration	38	149
Challenge,		
general oath on.....	45	157
memorandum of.....	46	158

City clerk,	NO.	PAGE.
receipt of, for official ballots	18	188
receipt of inspector to, for official ballots.....	14	188
Compensation,		
bill of.....	27	144
Constable,		
deputation to.....	41	155
Convention,		
certificate of nomination in county or less.....	4	184
County clerk,		
receipt of town or city clerk to, for official ballots	14	188
D.		
Declination,		
of nomination.....	9	187
Diagram,		
of room.....	49	160
E.		
Election officers,		
oath of	16	189
G.		
General,		
ballot	50	161
I.		
Inspectors of election,		
designation of.....	21, 22, 28	142
oath of office for	11, 18	188-140
order of town board appointing	19	141
receipt of, for official ballots.....	14	188
return	26	151
L.		
List,		
of nominations to be posted by town or village clerk.....	8	187
of nominations to be published by county clerk.....	7	186
of persons enrolled in district	20	146
List or poster,		
of candidates to be sent to town clerk, etc.....	6	186

INDEX TO FORMS.

251

N.

Nomination,	NO.	PAGE.
certificate of, for ward, town or village office ..	5	185
certificate, pursuant to section 57	8	188
convention, certificate of, in county or less	4	184
declination of	9	187
list of, to be posted by town or village clerk.....	8	187
list of, to be published by county clerk	7	186

O.

Oath,		
in case of physical disability.....	15	189
of office for ballot clerks.....	12	188
of office for poll clerks.....	13	188
of office for inspectors of election	18	140
Official ballot,		
form of	50	161

P.

Party committee,		
certificate of nomination of office	2	183
Party convention,		
certificate of nomination for a congressional office.....	1	181
certificate of nomination for a judicial office.....	1	181
certificate of nomination for a senatorial office	1	181
certificate of nomination for state office	1	181
Physical disability,		
oath in case of.....	15	189
Poll-book,		
page of	43	148
Poll-clerks,		
oath of office of	13	188
Poster or list,		
of candidates to be sent to town clerk, etc.....	6	186
Precept,		
in case of disorderly conduct	40, 43	154-155
Proclamation,		
of opening polls.....	39	146
of result	48	156

R.

Receipt,	NO.	PAGE.
of election inspector, for official ballots	14	188
of town or city clerk, for official ballots	18	188
Registration,		
certificate of	83	140
Registry,		
form of, in cities of first class	26	187
form of, in other districts	30	188
preliminary oath on challenge for	81	189
general oath on	81	140
Report,		
assisted and challenged electors	86	146
Return,		
ballot	85	143
inspectors, etc.	86	143
of votes	87	144

S.

State,		
party committee, certificate of nomination for office	3	132
Statement,		
canvass	86-87	143, 153
of votes	87	144

T.

Tally sheet	84	143
Town clerk,		
receipt of election inspectors to, for official ballots	14	188
receipt of, for official ballots	18	189

V.

Voter,		
oath of, in case of physical disability	15	189

CHAP. 401.

AN ACT to revise and consolidate the laws regulating the sale of intoxicating liquors.

APPROVED by the Governor April 30, 10 A. M., 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- SECTION**
1. Short title and extent of application.
 2. Boards of excise, how constituted.
 3. Eligibility to office of commissioner of excise.
 4. Election of commissioners of excise in towns.
 5. Appointment of commissioners of excise in cities.
 6. Removal of commissioners of excise.
 7. Oath and bond of commissioners of excise.
 8. Compensation of commissioners of excise.
 9. Incidental expenses of boards of excise.
 10. Appointments by boards of excise of cities.
 11. Employment of attorney by a board of excise of a town.
 12. Records of boards of excise.
 13. Compulsory attendance of witnesses before boards of excise.
 14. Prosecutions of civil actions by boards of excise.
 15. Payment over of moneys received by commissioners of excise.
 16. Annual reports of boards of excise.
 17. Meetings of boards of excise.
 18. Prohibitions upon the granting of licenses.
 19. Classification of licenses and license fees.
 20. Papers to be filed by applicants for license.
 21. When a license may be granted by a board of excise.
 22. Forms of licenses.
 23. Posting licenses.
 24. Certiorari upon refusal to grant license.
 25. Transfer of license upon death of licensee.
 26. Transfer of license by permission of board.
 27. Revocation of license by force of criminal conviction.
 28. Grounds for revocation of license by board.
 29. Review of determination of board.
 30. Licenses to common carriers by comptroller.
 31. Illegal sales without license.
 32. Illegal sales with or without a license.

- SECTION 33.** Illegal sales in violation of a license.
34. Liquors in public institutions.
35. Intoxication in a public place.
36. Violation of this act generally.
37. Reports of conviction to boards of excise.
38. Rights of officers on licensed premises.
39. Employment of persons addicted to intoxication by common carriers.
40. Civil actions for credit sales and for damages from intoxication.
41. Local option.
42. Complaints before boards of excise.
43. Restrictions as to licenses near churches and schools.
44. Distribution of copies of this act by secretary of state.
45. Laws repealed; saving clause.
46. Time of taking effect.

§ 1. Short title and extent of application.— This chapter shall be known as the excise law, and shall supersede the provisions of any special or local law in conflict therewith.

§ 2. Boards of excise, how constituted.— The term of office of every commissioner of excise now in office shall be the term for which he was elected or appointed, and the term of office of every commissioner of excise appointed prior to the expiration of the term of the mayor now in office, shall be for the term as now provided by law. The commissioners of excise in each town and city shall constitute the board of excise thereof. A majority of the commissioners constituting a board of excise shall be a quorum for the transaction of the business of the board. If there be less than three commissioners in office, the commissioner or commissioners in office shall constitute the board of excise.

§ 3. Eligibility to office of commissioner of excise.— No person shall be eligible to the office of commissioner of excise who is a supervisor, justice of the peace or town clerk of a town or a president or trustee of an incorporated village, or engaged or interested in the sale or manufacture of strong or spirituous liquors, wine, ale or beer, or who is not a citizen of this state and a resident of the town or city for which he is elected or appointed. If a commissioner of excise of a town or city shall cease to be a resident thereof his office shall thereupon become vacant.

§ 4. Election of commissioners of excise in towns.— At each annual town meeting there shall be elected by separate ballots, but otherwise in the same manner as other town officers are elected, one commissioner of excise for the term of three years. A vacancy occurring otherwise than by expiration of term in the office of a commissioner of excise of a town shall be filled by the town board of the town, until the next annual town meeting; and if such unex-

pired term shall continue thereafter a commissioner of excise shall be elected at such town meeting for such unexpired term in the same manner as other town officers are elected, and in addition to the commissioner of excise then elected for the full term. Any part of a town included within the boundaries of a city shall be deemed to be not a part of such town for the purposes of this act; and every commissioner of excise of such town hereafter elected shall be a resident of that portion of the town which is outside of such city; and only electors of such town residing outside of such city shall be entitled hereafter to vote for a commissioner of excise of such town. If in any town the term of office of more than one commissioner shall expire at the time of an annual town meeting, successors to the commissioners whose terms so expire, shall respectively be elected at such annual town meeting for such terms of office that there shall be three commissioners of excise of such town, whose terms of office shall be one, two and three years, respectively. But if in any town there shall be more than three commissioners of excise of such town, no new commissioner of excise of such town shall be elected until there are less than three such commissioners whose terms of office continue for the year after the annual town meeting.

§ 5. Appointment of commissioners of excise in cities.— Upon the occurrence of a vacancy, by expiration of term or otherwise, in the office of a commissioner of excise of a city, the mayor of such city, except as herein otherwise provided, shall appoint a commissioner of excise of such city to fill such vacancy, for a term of office which shall expire with the expiration of the term of office of the mayor. But no such commissioner shall be appointed if, without such appointment, there shall be three commissioners of excise of such city in office. But this section shall not apply to any city where the charter of such city now provides for the election of commissioners of excise by ballot, and nothing in this act shall be construed to repeal the provisions of any city charter providing for the selection of commissioners of excise.

§ 6. Removal of commissioners of excise.— A commissioner of excise who shall have been guilty of any willful neglect of duty or of any misconduct in office, may after reasonable notice of the charge against him and an opportunity to be heard, be removed from office by the mayor of the city of which he is commissioner, or by the county judge of the county in which the town of which he is a commissioner is situated, subject, however, before such removal shall take effect to the written approval of the governor. A mayor or county judge making such removal shall in all cases communicate to the governor in writing his reasons for such removal and

shall also file a written statement of the reasons for such removal in the office of the clerk of the city of which he is mayor, or of the county of which he is judge, as the case may be.

§ 7. Oath and bond of commissioners of excise.— Every commissioner of excise shall, within ten days after his appointment or election; and before entering upon the duties of his office, take and file with the city clerk of his city, or with the town clerk of his town, the constitutional oath of office, and file in the same office his bond to his city or town with sufficient sureties, in a penal sum, if he be a commissioner of a city, to be fixed by the mayor, at not less than five thousand nor more than twenty thousand dollars; or, if he be a commissioner of a town, to be fixed by the supervisor of the town, at a sum which shall be not less than double the sum collected in such town for excise licenses, in the then next preceding year, and at least one thousand dollars, conditioned that the commissioner shall faithfully perform all the duties of his office, and promptly pay over, in accordance with law, all moneys received by him as such commissioner. Before such bond shall be so filed, it shall be indorsed with the written approval, both as to its form and as to the sufficiency of the sureties therein, of the mayor of the city or of the supervisor of the town as the case may be.

§ 8. Compensation of commissioners of excise.— The salary of a commissioner of excise of a city other than the cities of New York and Brooklyn, shall be fixed by the common council of the city, and in cities having by the last census one hundred and forty thousand inhabitants or more, shall not be less than fifteen hundred dollars, nor more than twenty-five hundred dollars, and in cities having by the last census less than one hundred and fifty thousand inhabitants and more than twenty-five thousand, shall not be less than five hundred dollars per annum, and in cities less than twenty-five thousand inhabitants shall not exceed three dollars for each day of actual attendance upon the meetings of the board of excise of such cities. The salary of a commissioner of excise of the city of New York shall be fixed by the board of estimate and apportionment of such city, and the salary of a commissioner of excise of the city of Brooklyn shall be fixed by the common council of the city of Brooklyn, and shall not exceed five thousand dollars in either case. The board of estimate and apportionment of the city of New York and the board of estimate of the city of Brooklyn shall annually prescribe the maximum amount which shall be annually expended for rent, hire of employes and other necessary expenses of the board of excise of the cities of New York and Brooklyn respectively. The salaries and expenses of commissioners of excise of a city shall be audited and paid in the same manner as the salaries and expenses of other officers thereof are audited and paid. Each commissioner of excise of a town shall receive compensation at the rate of three dollars for each day of actual attendance upon the meetings of the board of excise of the town which shall be a town charge. A com-

missioner of excise shall not demand or receive for his services any other compensation, fee or award than the salary or compensation provided for in this section.

This act shall apply to all existing boards.

Am'd by chap. 811 of 1895. Took effect June 18, 1895.

§ 9. Incidental expenses of boards of excise.— Every board of excise may procure necessary books and stationery for its own use, and may procure and furnish to applicants for licenses and other persons printed blanks of all papers and instruments which may lawfully be presented to or filed with the board by such persons. The reasonable and necessary expenses thereof, and all other necessary incidental expenses of such board shall be a city charge if incurred by such board of a city, and a town charge if incurred by such board of a town.

§ 10. Appointments by boards of excise of cities.— A board of excise of a city may appoint:

1. A clerk of the board and fix his compensation at an amount not exceeding the salary of a commissioner. Such clerk may administer oaths in all matters relating to the business of the board of which he is clerk, and may take and certify affidavits, and acknowledgments and proofs of the execution of all papers and instruments to be presented to or used by or before the board, but he shall not demand or receive any fees therefor.

2. An attorney for the board who shall be an attorney and counselor of the supreme court, and whose salary may be fixed by the board at a sum not exceeding the salary of a commissioner, and such other employes as the board may deem necessary, whose duties may be prescribed by the board, and whose compensation may be fixed by the board. The compensation for such appointees shall be paid in the same manner as the salaries of the commissioners of excise.

§ 11. Employment of attorney by a board of excise of a town.— A board of excise of a town may employ an attorney and counselor of the supreme court to act as attorney for such board, from time to time, as may be reasonably necessary. His compensation shall be a town charge and shall be audited and paid in the same manner as other town charges.

§ 12. Records of board of excise.— Every board of excise shall keep a book of minutes in which shall be entered every resolution passed by it granting or refusing a license, and a complete record of all other proceedings of the board. Every board of excise shall also keep a record-book showing in separate columns the name of each licensee, the locality of the premises licensed, the character and class of each license, the date of granting the same, the amount of the license fee, the date of the payment thereof and the name and residence of each surety on the bond of each licensee. Each book of minutes and record-book of every board of excise shall be open to the inspection of the public when not necessarily in use by the

board, and, if of a board of excise of a city, shall be kept at its office, and, if of a board of excise of a town, shall be kept in the office of the town clerk of the town.

§ 13. Compulsory attendance of witnesses before boards of excise.—Every board of excise shall have power to issue a subpoena to any person to appear before the board to testify, or to produce and exhibit books and papers to the board in any matter in which the board may lawfully investigate. The board shall issue such subpoenas upon the request of any person who is a party to any investigation or proceeding by or before the board in which oral evidence is proposed to be taken. The mode of service of such subpoenas and the fees of witnesses shall be the same as in the case of subpoenas to witnesses to attend upon the trial of a civil action in a court of record. A subpoena or any process which the board is authorized to issue, attested in the name of the board by the chairman or clerk thereof, shall be deemed the subpoena or process of the board. Any member of the board or clerk of the board is authorized to administer an oath to any such witness.

§ 14. Prosecutions of civil actions by boards of excise.—The board of excise of each city and town may prosecute a civil action in the name of such city or town as plaintiff against the persons who may be liable upon any bond of a person licensed by the board of excise of such city or town, under the provisions of this act, upon the breach of any condition of such bond; and against every person who may be liable in a civil action, for any penalty imposed by this act, and all costs and disbursements therein, together with any judgment or liability incurred by or entered against the board of excise, or against any or either of the commissioners thereof, shall be a city charge if incurred by or entered against a board of excise of a city, or a member or a commissioner thereof, and a town charge if incurred by or entered against such board of a town, or any commissioner or member thereof. If a board of excise, whose duty it is to prosecute such an action shall, for the period of ten days after receiving complaint in writing that any liability for which it may prosecute such an action has been incurred, accompanied with reasonable proof of the same, neglect or refuse to commence such an action, any resident of the city or town where the penalty has been incurred may prosecute such an action in the name of such city or town as plaintiff; and if the defendant in such action shall be entitled to a judgment in his favor for costs, such judgment shall be rendered against the person so bringing the action in the name of the city or town, and not against the city or town.

Am'd by chap. 480 of 1898.

§ 15. Payment over of moneys received by commissioners of excise.—Every board of excise and every commissioner of excise of a city shall, within three days after the receipt of any money by such board or commissioner, pay such money or cause it to be paid into the treasury of such city, or deposit such money in one of the banks designated as a depository for city funds. Every board of excise and every commissioner of excise of a town shall, within ten days after the receipt of any money by such board or commissioner, pay such money or cause it to be paid to the supervisor of such town. Such moneys shall be applied to the payment of the ordinary expenditures payable from the general fund of the city or town respectively, unless otherwise provided by a special or local law.

§ 16. Annual reports of boards of excise.—Every board of excise shall annually, on the first Monday of January, make and file with the county clerk of the county, a written report, for the then last preceding calendar year, of the number of licenses issued by such board during that year; the number of each kind of license so issued; the amount received for licenses; a general statement of the expenses of the board, and a statement of its proceedings during the year under the provisions of this act.

§ 17. Meetings of boards of excise.—Each board of excise of a city shall meet in such city on the first Monday of each month, and at such other times as the board may deem necessary, for the purpose of receiving, considering, and, in proper cases, granting licenses, and of transacting any other business properly coming before the board. Each board of excise of a town shall meet for the like purpose on the first Monday of May of each year, and at no other time for that purpose, except upon application for licenses made in good faith or to hear complaints made for violations of this act and in such case not oftener than once in each month.

Am'd by chap. 271 of 1898.

§ 18. Prohibitions upon the granting of licenses.—A board of excise shall not grant any license to any person or persons unless each such person is over twenty-one years of age, is a citizen of the United States, a resident of this state, and of good moral character, approved by the board, and is actually and beneficially interested as an owner or proprietor of and engaged in, or is to be engaged in, the business sought to be licensed; nor to any one to sell strong or spirituous liquors, wines, ale or beer upon any premises used as a court-house, or upon any premises used or occupied wholly for state, county or municipal purposes; nor if the license of any former licensee of the premises sought to be licensed, has been revoked or

annulled, unless the applicant shall state in his application and satisfy the board of excise that such former licensee has not and will not have any interest in the business sought to be licensed, during the continuance of such license, unless such revocation has been annulled or set aside by a court empowered thereto, under the provisions of this act, or upon a determination of a board of excise, made not earlier than one year after such revocation. The requirements of this section as to citizenship shall not apply to any person now holding a license, but a corporation shall not be licensed unless it is organized under the laws of this state.

Am'd by chap. 490 of 1898.

§ 19. Classification of licenses and license fees.—A board of excise may, when authorized by law and not otherwise, grant to one or more applicants therefor, for any premises not forbidden by the terms of this act to be licensed, one or more of the following kinds of licenses, upon fixing and receiving a fee therefor, as follows:

1. A license to the keeper or keepers of an inn, tavern or hotel having, if in a city, at least ten bed-rooms for guests, and if in a town, at least three such bed-rooms, permitting sales in such inn, tavern or hotel of strong or spirituous liquors, wines, ale or beer to be drunk on or off the licensed premises, which shall be known as a hotel license, and for which the fee shall be, if such premises shall be in a city, not less than thirty dollars nor more than five hundred dollars, and if such premises shall be in a town, not less than thirty dollars nor more than one hundred and fifty dollars.

2. A license to the keeper or keepers of a saloon, permitting sales therein of strong or spirituous liquors, wine, ale or beer to be drunk on or off the licensed premises, which shall be known as a saloon liquor license, and for which the fee shall be, if such premises shall be in a city, not less than thirty dollars nor more than two hundred and fifty dollars, and if such premises shall be in a town, not less than thirty dollars nor more than one hundred and fifty dollars. And if the applicant or applicants shall desire it and shall so state in the application, it may be made a condition of such license that strong or spirituous liquors, wines, ale or beer, shall only be sold to be drunk upon the licensed premises when served at a table with food.

3. A license to the keeper or keepers of a saloon, permitting sales therein of ale and beer only, to be drunk on or off the licensed premises, which shall be known as a saloon, ale and beer license, and for which the fee shall be, if such premises shall be in a city, not less than thirty dollars nor more than seventy-five dollars, and if such premises shall be in a town, not less than twenty dollars nor more than sixty dollars.

4. A license to the keeper or keepers of a store permitting sales therein of strong and spirituous liquors, wines, ale or beer, not to be drunk on the licensed premises, which shall be known as a store-keeper's license, and for which the fee shall be, if such premises shall be in a city, not less than thirty dollars nor more than two hundred and fifty dollars, and if such premises shall be in a town, not less than thirty dollars nor more than one hundred and fifty dollars.

5. A license to the keeper or keepers of a drug store, permitting sales therein only upon a physician's written prescription, to be but once used, of strong or spirituous liquors, wines, ale or beer, not to be drunk on the licensed premises, which shall be known as a druggist's license, and for which the fee shall be twenty dollars. A druggist shall not be licensed under this subdivision unless he is a duly licensed pharmacist and shall not be granted any other license under this act. But nothing herein contained shall be construed to prevent the renewal or continuance of any license which existed for premises occupied as or connected with a drug store on the thirtieth day of April, eighteen hundred and ninety-two.

6. An additional license permitting sales of strong or spirituous liquors, wines, ale or beer between the hours of one and five o'clock in the morning, to be drunk on or off the licensed premises, may be granted upon application to any person or persons or corporations having a license, when it shall appear that public necessity requires that sales be permitted upon such licensed premises between the hours aforesaid; and for which additional license the fee shall not be less than thirty dollars nor more than one hundred and fifty dollars. Every additional license so granted shall expire at the same time that the existing license for the same premises expires.

7. No license granted by any board of excise shall authorize the sale of strong or spirituous liquors, wines, ale or beer in quantities of five gallons or upwards at a time. Every such license, except an additional license, if granted by the board of excise of a city if it be a renewal of an existing license, or a license sought for the purpose of continuing a business then being carried on upon the expiration of an existing license, shall expire one year from date of expiration of the license it is intended to renew, and if it be for a business not previously licensed, or for a person, persons or corporation not previously licensed at the place for which the license is sought, and not having an assignment of an existing license for such place as provided in section twenty-six of this act, shall expire one year from the date of issuing it, and if granted by the board of excise of a town, shall expire on the first Monday of May next succeeding the date of granting it, but if granted for less than a year, the fee therefor shall be reduced proportionately.

8. No license under either subdivisions two or three of this section shall be granted in any city of over five hundred thousand inhabitants to any person, persons or corporation for premises where the applicant or any person, persons or corporation shall be engaged in the sale of groceries. But nothing herein contained shall be construed to prevent the renewal or continuance of any license which existed for such premises on the thirtieth day of April, eighteen hundred and ninety-two, in cities of over one million two hundred and fifty thousand population.

Am'd by chap. 480 of 1898.

§ 20. Papers to be filed by applicants for license. — A board of excise shall not grant a license until the applicant or applicants therefor shall have presented to and filed with such board :

1. A written or printed application signed and sworn to by such applicant or applicants, or by the person making an application in behalf of a corporation, stating the name of each applicant, and if there be more than one and they are partners, also their partnership name ; the name of every person interested or to become interested in the business for which the license is sought unless such applicant be a corporation in which case the person making the application in behalf of the corporation shall set forth, instead, the nature of his authority to act for the corporation ; and where the application is made for a copartnership the papers required to be executed and filed by such applicants for a license may be executed by a member of such copartnership for and in behalf of all the said copartners, and the license shall be issued to and in the names jointly of all the copartners named in the application, except that if any member of a partnership is not a citizen of the United States and a resident of this state and was not licensed prior to the thirtieth day of April, eighteen hundred and ninety-two, the name of such member shall not be included in the license, but the name and ineligibility of such member must be stated in the application ; the premises where such business is to be carried on, stating the street and number, if the premises have a street and number, and otherwise such apt designation as will reasonably indicate the locality thereof ; and a full statement showing that such applicant or applicants may lawfully be licensed to carry on the business sought to be licensed, upon such premises. And if the application be for a license for a business which does not exist at the time the application is made but which it is the intention and desire of the applicant or applicants to establish and carry on, if the license applied for be granted, it shall be so stated in the application together with such particulars relating thereto as may be required by the board of excise ; and in

such case, if the application be approved, the license may be issued at any time, except that if the application be for a license for an inn, tavern or hotel, the license may be granted at any time but shall not be issued until the board of excise are satisfied that there are upon the premises for which the license is sought the necessary accommodations for guests.

2. A bond to the city or town in which such premises are situated, in the penal sum of two hundred and fifty dollars, conditioned that if the license applied for shall be granted, the applicant or applicants or copartners or corporation for whom or for which the application is made will not, while the business so licensed shall be carried on, suffer the licensed premises to become disorderly, or suffer any gambling therein or in any outhouse, yard or garden belonging thereto, and will not violate any provisions of the excise law. Such bond shall be executed by each such applicant as a principal, and by at least two sureties who shall be residents of the town or city in which such premises are. The bond shall have annexed thereto, or endorsed thereon, the affidavit of each such surety, to the effect that he is worth double the penal sum named in such bond, over and above his just debts and liabilities, and his property exempt by law from levy and sale by virtue of an execution.

3. An applicant for a license to sell spirituous liquors, wines, ale or beer, to be drunk on the premises situated in any public park shall present and file with such board the written consent of the authorities having charge and control of such park, to the granting of such license.

Am'd by chap. 480 of 1898.

§ 21. When a license may be granted by a board of excise.

— A board of excise may grant to the applicant or applicants therefor one or more of the kinds of licenses specified in next to the last preceding section ; if such applicant or applicants shall have complied with the provisions of the last preceding section ; if the board approves the bond presented with such application, both as to its form and as to the sufficiency of the sureties therein, and if the board is satisfied that such application is true, and that each such applicant may lawfully be licensed to carry on the business sought to be licensed upon the premises specified therefor in such application.

§ 23. Forms of licenses.— Every license granted by a board of excise shall be signed by a majority of the members of the board, and shall be in the form of a printed or engraved certificate. It shall state the name of each person to whom it is granted, and if granted to two or more persons as partners, their partnership name ;

the kind of license; the kind of business authorized to be carried on thereby; the location of the premises thereby licensed and the date when it will expire. In a storekeeper's license there shall be conspicuously inserted these words: "This license authorizes the sale of strong and spirituous liquors, wines, ale and beer, not to be drunk upon the premises." In a druggist's license, there shall be inserted these words: "This license authorizes the sale by the licensee, while a licensed pharmacist, of strong and spirituous liquors, wines, ale and beer, not to be drunk upon the premises, and to be sold upon the written prescription of a physician, to be but once used."

Am'd by chap. 480 of 1898.

§ 23. Posting licenses.— Every license shall be and remain conspicuously posted on the premises licensed, while the business licensed thereby is carried on under such license.

§ 24. Certiorari upon refusal to grant license.— A board of excise shall render its decision upon an application for license, or an application for a permission made as provided for in section twenty-six of this act, within thirty days after the first meeting of the board subsequent to the filing of the application with such board; except that the time for rendering such decision may be extended by the board for a specified time upon the request of the applicant or applicants made in writing. Whenever a board of excise of a city having more than thirty thousand inhabitants shall have determined to deny an application for a license, or for such permission, or a board of excise in other cities or in any town shall have determined to deny an application for a hotel or an inn-keeper's license in such other city or town, such board shall file in its office with such application a statement of the reason for such determination, and shall, if so requested, furnish the applicant or applicants a copy of such statement, and of the resolution entered upon its record expressing such determination. Such applicant or applicants shall have the right to a writ of certiorari to review the action of such board. The writ may be made returnable to and the cause heard by a city court, a superior court, a court of common pleas, or a county court in the county, or the supreme court or a justice thereof in the judicial district in which the premises sought to be licensed are situated. If the writ shall be granted, the board of excise to which it is directed shall, in its return thereto, include copies of all papers upon which its action was based, and a statement of its reasons for refusing to grant such application. If such court shall, upon the hearing determine that such applicant for a license or permission has been by such board denied without sufficient (good or valid) reasons therefor, such court may make an order commanding

such board of excise to grant such application, and to issue a license or permission to such applicant upon the payment of the proper license fee.

Am'd by chaps. 480 and 481 of 1893.

§ 25. **Transfer of license upon death of licensee.**—If a licensee shall die during the term of his license, his personal representatives, or the successors by his last will or by distribution to his interest in the business licensed, may continue to carry on such business upon the licensed premises for the balance of the term of such license, with the same rights and liabilities as if such persons were originally licensed therefor, for the balance of such term.

§ 26. **Transfer of license by permission of board.**—A board of excise in any city of more than one million two hundred and fifty thousand inhabitants may, upon the payment of an additional license fee of not less than ten or more than thirty dollars, grant a written permission to any person, persons or corporation having a license from said board, but a board of excise of a city of less than one million two hundred and fifty thousand population may grant a written permission to any person, persons or corporation having a license from said board:

1. To carry on such licensed business upon other premises in the same city or town during the balance of the term of such license, upon the discontinuance of the licensed business upon the premises originally licensed during the term of such license, and such person, persons or corporation may thereupon carry on such business upon such other premises during the balance of the term of such license, with the same rights and liabilities as if such permission were an original license therefor for the balance of such term; or

2. To sell, assign or transfer such license during the term for which it was granted to any person, persons or corporation, and the board of excise may thereupon grant to such person, persons or corporation a written permission to carry on such business upon the licensed premises during the balance of the term of such license, with the same rights and liabilities as if such permission were an original license therefor for the balance of such term. But such written permission to so carry on such business shall be granted only upon the same conditions as upon the granting of an original license of the same kind to the person, persons or corporation so permitted to carry on such business upon such premises for the period of such permission. Such written permission shall be posted, together with the original license, for the

balance of such term in the same manner as an original license is required to be posted during its continuance. And upon an order made by any court of record in this state, directed to a board of excise, authorizing a receiver of any licensed business to carry on such business, such board of excise may, upon the application of such receiver, and upon his filing a bond and complying with all the conditions requisite for the existing license for such business, grant a permission to such receiver without the payment of any fee to carry on such business upon the licensed premises during the balance of the term of such license.

§ 27. Revocation of license by force of criminal conviction.—The conviction in a criminal action by a court of competent jurisdiction, shall effect the immediate revocation of the license of the person so convicted in either of the following cases :

1. The conviction of a licensee of a felony during the term of the license.

2. The conviction of any person, licensed under this act, of selling or offering for sale adulterated liquors during the term of his license upon the licensed premises, or of adulterating liquors with intent to sell the same during such term upon such premises, or

3. The conviction of any person licensed as a store-keeper or druggist of selling strong or spirituous liquors, wines, ale or beer to be drunk upon the licensed premises, or

4. The conviction of any person having an ale or beer license only of selling strong and spirituous liquors or wines. But a reversal of any such conviction, upon appeal, during the term of such license, shall restore the validity of the license for the balance of the term thereof.

§ 28. Ground for revocation of license by board.—A board of excise may, upon a complaint made and hearing had thereon as provided by section forty-two of this act, revoke any license granted by it in either of the following cases :

1. If the licensee shall have obtained the license by false representations or other fraud ; or, if the licensed premises are kept as a house of ill-fame, or a house or place for persons to visit for unlawful sexual intercourse, or for any lewd or obscene or indecent purposes, or as a resort for thieves or other criminals, or if the peace or decency of a neighborhood is habitually disturbed ; or if the licensee has violated section twenty-three, or any of the provisions of section thirty-three of this act, or having a license upon the condition that he will sell strong or spirituous liquors, wines, ale or beer to be drunk upon the licensed premises only when served at table with food, has violated such condition.

2. If, during the term of the license, a judgment shall have been rendered against the licensee, in a civil action, for a penalty imposed by this act, and such judgment shall not be satisfied or duly appealed from within sixty days after its rendition.

3. If the licensee shall, during the term of his license permit any girl or woman not a member of his family, to sell or serve, or offer to sell or serve, or cause to be sold or served upon the licensed premises any strong or spirituous liquors, wines, ale or beer.

4. If the licensee having been licensed as an inn-keeper or hotel-keeper shall, during the term of the license, cease to have and maintain upon the premises the necessary accommodations for guests.

5. If the licensee under either subdivision two or three of section nineteen of this act, in any city having over five hundred thousand inhabitants, shall at any time after the granting of the license to him become engaged or interested in the grocery business upon said licensed premises or any portion of said licensed premises shall be used for the grocery business.

6. If the licensee shall have been convicted, during the term of the license, of any violation of this act other than one specified in this or in the last preceding section, and shall again be convicted or found guilty of any violation of any provision of this act. But a reversal upon appeal, or upon certiorari proceedings, of such conviction or finding, during the term of such license, shall restore the validity of such license for the balance of the term thereof.

Am'd by chap. 480 of 1893.

§ 29. Review of determination of board.—A licensee who shall be found guilty of any violation of this act by the determination of a board of excise, or whose license shall be revoked by the determination of a board of excise, shall have the right to a writ of certiorari, to review either such determination. The writ may be issued by and the cause heard by a superior court, a court of common pleas, a county court in the county, or the supreme court, or a justice thereof, in the judicial district in which the licensed premises are situated.

§ 30. Licenses by comptroller to common carriers.—The comptroller is hereby authorized to grant licenses to persons, associations or corporations engaged in the transportation of passengers by cars, steamboats or vessels, within the limits of this state, permitting them to sell strong or spirituous liquors, wines, ale or beer, to such passengers while in transit, without license by any board of excise. Every license so granted by the comptroller shall expire at the end of one year from the date of its issuance. It shall be granted upon such terms, conditions and restrictions as such comp-

troller may deem proper, and upon the payment of such sum as he shall fix, not less than thirty dollars for each and every car, boat or vessel in which such sales are to be made. The moneys received by him for licenses shall be paid into the treasury of the state. Any person or corporation who shall sell, or permit to be sold, or offer or expose for sale, any strong or spirituous liquors, wines, ale or beer, upon any car, steamboat or vessel, without having first obtained a license therefor as herein provided shall forfeit the sum of fifty dollars for each offense, to be sued for and recovered in an action in the name of the people, brought by the attorney-general; and the person so offending shall be guilty of a misdemeanor.

§ 31. Illegal sales without license.—Any person who, without having a license granted to him in pursuance of a law of this state permitting him to sell either strong or spirituous liquors, wines, ale or beer, shall sell strong or spirituous liquors, wine, ale or beer in quantities of less than five gallons at a time, or shall sell any strong or spirituous liquor, wine, ale or beer in quantities of five gallons or more at a time, to be drunk or used on the premises where the same shall be sold, or in any garden or inclosure communicating with such premises, or in any public street or place, contiguous thereto, shall be guilty of a misdemeanor.

§ 32. Illegal sales with or without a license.—Any person who, whether having a license or not, shall sell or offer or expose for sale, or give away any strong or spirituous liquors, wines, ale or beer :

1. On Sunday, or
2. On any other day between one o'clock and five o'clock in the morning, unless he have a special license therefor; or
3. On the day of a general or special election or town meeting, within a quarter of a mile from the place where such general or special election or town meeting shall be held, while the polls for either such election or town meeting shall be open; or
4. Outside a city having a population of one hundred and fifty thousand or more inhabitants, within one hundred and fifty yards from the grounds or premises upon which any state, county, town or other agricultural or horticultural fair is held; or
5. To any child actually or apparently under the age of sixteen years, or to any intoxicated person, pauper, habitual drunkard or Indian; or
6. To any person to whom such licensee may be forbidden to sell by notice in writing from the parent, guardian, husband, wife or child over sixteen years of age, of such person, or if such person be a pauper, from the magistrate or overseer of the poor of the town, shall be guilty of a misdemeanor.

But notwithstanding any provision of this section the holder of a druggist's license may lawfully sell strong or spirituous liquors, wines, ale or beer, not to be drunk upon the licensed premises, upon the prescription of a physician to be but once used, and the holder of an inn-keeper's license may sell to guests of such hotel, except as prescribed in subdivision six of this section but not in the bar-room or other similar room of the inn, tavern or hotel licensed, strong or spirituous liquors, wines, ale or beer, to be drunk by the purchaser, in the inn, tavern or hotel thereby licensed, with his meals, or in his rooms or apartments therein, but not in the bar-room or other similar room of the inn, tavern or hotel licensed.

Am'd by chap. 480 of 1893.

§ 33. Illegal sales in violation of a license. — Any person who,

1. Having any license from a board of excise, shall sell or offer or expose for sale any strong or spirituous liquor, wine, ale or beer in quantities of less than five gallons at a time, at any other place than where he is permitted by such license to sell the same, or to be drunk at any other place than where he is by such license permitted to sell the same to be drunk, or

2. Having a license to sell ale and beer only, shall sell or offer for sale any strong or spirituous liquors, or

3. Having a storekeeper's license only, shall sell or offer or expose for sale strong or spirituous liquors, wines, ale or beer, to be drunk upon the licensed premises, or

4. Having a druggist's license only, shall sell or offer or expose for sale strong or spirituous liquors, wines, ale or beer, otherwise than upon a physician's prescription, not theretofore used, shall be guilty of a misdemeanor.

§ 34. Liquors in public institutions. — No strong or spirituous liquors, wines, ale or beer shall be brought, sold or given away upon the premises used and established as a jail, penitentiary, house of refuge, protectory, juvenile reformatory or poor-house, to or for the use of an inmate or person confined therein, without a written prescription from a physician to such jail, penitentiary, prison, house of refuge, protectory or juvenile reformatory or poor-house, specifying the cause for which such prescription is given, the quantity and kind of strong or spirituous liquors, wines, ale or beer, which may be furnished, the name of the person or prisoner for whom and the time during which the same may be furnished. Such prescription shall not be made unless the physician is satisfied that the strong or spirituous liquors, wines, ales, ale or beer furnished is necessary for the health of the person or prisoner for whose use it is prescribed, and that

fact must be stated in the prescription. Any person who shall bring into or sell in a jail, penitentiary, prison, house of refuge, juvenile reformatory or poor-house, any strong or spirituous liquors, wines, ale or beer, contrary to this section, shall be guilty of a misdemeanor, and any sheriff, keeper, or assistant keeper, or other officer employed in or about any jail, penitentiary, prison, house of refuge, protectory, juvenile reformatory or poor-house, who knowingly suffers any strong or spirituous liquors, wines, ale or beer to be sold or used therein contrary to the provisions of this section shall forfeit his office.

§ 35. Intoxication in a public place. — Any person who shall be intoxicated in a public place shall be guilty of disorderly conduct, may be arrested without warrant while so intoxicated, and shall be punished by a fine of not less than three nor more than ten dollars, or by imprisonment not exceeding six months.

§ 36. Violations of this act generally. — Any willful violation by any person of any provision of this act for which no punishment or penalty is otherwise prescribed shall be a misdemeanor.

§ 37. Reports of convictions to boards of excise. — Every judicial officer holding or presiding over any court at which any person holding a license from a board of excise shall be convicted in any criminal action or proceeding, of any felony or of any offense which is a violation of this act, shall forthwith report the fact of such conviction to such board of excise.

§ 38. Rights of officers on licensed premises. — Every officer authorized to make arrests on criminal process in any city or town in which any licensed premises are situated may enter upon such licensed premises while the same are permitted by the license to be kept open for carrying on the licensed business therein.

§ 39. Employment of persons addicted to intoxication by common carriers. — Any person, association or corporation engaged in the business of conveying passengers and property for hire who shall employ in the conduct of such business any person who habitually indulges in the intemperate use of intoxicating drinks, after notice that such person has been intoxicated while in the active service of such person, association or corporation as an engineer, fireman, conductor, switchtender, commander, pilot, mate, foreman or in other like capacity, so that by his neglect of duty the safety and security of the life, person or property so conveyed might be imperilled, shall be guilty of a misdemeanor.

§ 40. Civil actions for credit sales and for damages from intoxication. — No recovery shall be had in any civil action to recover the purchase price of any sale on credit of any strong or spirituous liquor, wine, ale or beer to be drunk on the premises where the same

shall be sold. All security given for such debts shall be void, and any person taking such security with intent to evade this section, shall forfeit double the sum intended to be secured thereby to the city or town in which such sales were made, and an action may be brought to recover such penalty in the name of such city or town by the board of excise thereof. No recovery shall be had in any civil action brought to recover damages suffered by reason of the intoxication of any person against a person or persons who shall by selling or giving away any intoxicating drink, have caused such intoxication, unless one of the persons who might have such a cause of action, in case of such damage, shall, prior to such sale or giving away, have given written notice to the person selling or giving away such intoxicating drink, forbidding such sale or giving away to the person whose intoxication shall have caused such damage.

§ 41. **Local option.**—Nothing herein except section thirty-one, shall in any manner apply to any town where the majority of voters have voted for or hereafter vote for local prohibition until such town shall reverse by vote such local prohibition.

§ 42. **Complaints before boards of excise.**—A board of excise of any city or town may at any time on the complaint, verified as pleadings are required to be verified under the code, of any resident of said city or town alleging that any person or persons licensed has or have violated any of the provisions of this act, summon before it any such person or persons or any officer of a corporation licensed as aforesaid, and if they shall become satisfied that any such person, persons or corporation has or have violated any provisions of this act for the violation of which a board of excise is authorized to revoke a license, they shall revoke, cancel and annul the license of any such person, persons, or corporation which they are empowered to do, and when necessary to enter upon the premises and take possession of and cancel such license. The said board shall, within thirty days after a case has been heard upon a complaint and finally submitted, render a decision in writing; and for any willful failure upon the part of any commissioner to comply with the provisions of this act such commissioner shall, in addition to forfeiting his office be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine not to exceed two hundred and fifty dollars. Upon an inquiry the said board, or party complained of, may subpoena and the said board may compel the attendance of witnesses before them and examine them under oath. The service of said summons shall be made by delivering a copy thereof to the licensee personally, if he can be found upon the place licensed; and if said licensee can not be found upon said licensed place, to permit of such service, then service thereof may be

made by leaving a copy thereof at said licensed place with a person of proper age, if upon reasonable application admittance can be obtained and such person found, who will receive it, or if admittance can not be so obtained, nor such person found, by affixing the same to the outer or other door of the building in which said licensed place is situated. The service of the summons aforesaid shall be made at least two days before any hearing is had upon a complaint against a licensee.

Am'd by chap. 480 of 1898.

§ 43. Restrictions as to licenses near churches and schools.

— No person or persons who shall not have been licensed prior to the passage of this act, shall hereafter be licensed to sell strong or spirituous liquors, wines, ale and beer, in any building not used for hotel purposes, and for which a license does not exist at the time of the passage of this act, which shall be on the same street or avenue and within two hundred feet of a building occupied exclusively as a church or school-house. The measurements shall be taken from the center of the nearest entrance of the building used for such church or school purposes to the center of the nearest entrance of the place for which an application for a license has been made; provided, however, that a board of excise may, in its discretion, grant permission, in the manner herein provided, to transfer a license from premises within the limits above mentioned to other premises within said limits, but at a greater distance from the principal entrance of a church or school.

§ 44. Distribution of copies of this act by secretary of state.

— The secretary of state shall cause to be printed, and distributed among the excise boards of this state such number of copies of this act, in the English and German languages respectively, as may, in his judgment, be proper for the use of such boards for distribution by them among licensees and others.

§ 45. Laws repealed ; saving clause.— Of the laws enumerated in the schedule hereto annexed that portion specified in the last column is repealed. Such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed, but the repeal of a law, or any part of it, specified in such schedule, shall not affect or impair any act done or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time this act takes effect under or by virtue of any law so repealed, but the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such law had not been repealed. All actions and proceedings, civil or criminal, commenced under or by virtue of the laws so repealed, and pending immediately prior to the taking effect of this act, may be prose-

cuted and defended to final effect in the same manner as they might under the laws then existing, but no action shall be begun nor any action prosecuted upon any bond to recover the penalty thereof, given to procure a license prior to the passage of this act unless judgment has been actually recovered in heretofore begun action. Every license heretofore granted by a board of excise shall be and remain valid for the term for which it was granted, and the rights and liabilities of the holder thereof during such term shall be governed by the laws enforced immediately prior to the taking effect of this act, except as otherwise expressly prescribed in this act.

Am'd by chap. 480 of 1893.

§ 46. Time of taking effect.—This act shall take effect immediately.

SCHEDULE OF LAWS REPEALED.

Laws of.	Chapter.	SECTIONS.
1840.....	229.....	All.
1843.....	97.....	3.
1857	628.....	All.
1858.....	143.....	All.
1860.....	274.....	All.
1862.....	161	All.
1869.....	856	All.
1870.....	175.....	All.
1873	249.....	All.
1873.....	549.....	All.
1873.....	820.....	All.
1874.....	642.....	All.
1877.....	420.....	All.
1878.....	109.....	All.
1879.....	145.....	All.
1879.....	472.....	All.
1880.....	429.....	All.
1881.....	164.....	All.
1881.....	466.....	All.
1882.....	126.....	All.
1883	340.....	All.
1885.....	323.....	All.
1885.....	444.....	All.
1886.....	459.....	All.
1886.....	496.....	All.
1888.....	35.....	All.
1890.....	161.....	All.

CHAP. 402.

AN ACT in relation to granting licenses to druggists to sell intoxicating drink.

APPROVED by the Governor April 30, 11 A. M., 1892. Passed three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Commissioners of excise may grant both a druggist's license and a storekeeper's license to a duly licensed pharmacist, but no other license than a druggist's license or storekeeper's license shall be granted to any person duly licensed to practice pharmacy.

§ 2. This act shall take effect immediately.

Am'd by chap. 479 of 1893.

CHAP. 403.

AN ACT in relation to excise.

APPROVED by the Governor April 30, 11 A. M., 1892. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. A board of excise of a city may appoint a clerk of the board and fix his compensation, not exceeding the salary of a commissioner, but if the clerk of any such board shall have been entitled by or in pursuance of law on the fifteenth day of April, eighteen hundred and ninety-two, to a greater rate of compensation, any such board may fix the compensation of such clerk after such fifteenth day of April at a greater rate or at a less rate in the discretion of the board.

§ 2. A recovery may be had in a civil action, of the damages suffered by reason of the intoxication of any person, from any person or persons who shall by selling or giving away intoxicating drink, have caused such intoxication, or from any persons owning or renting or permitting the occupation of any building or premises wherein such selling or giving away shall have occurred, jointly with the person or persons selling or giving away, or severally, if the person or persons suffering such damage, shall previous to such selling or giving away, have given written notice to the licensee or his agents or the person or persons so selling or giving away forbidding such selling

or giving away to the person whose intoxication shall have caused such damage, and not otherwise.

§ 3. This act shall take effect immediately.

CHAP. 121.

AN ACT making an appropriation to enable the comptroller to carry into effect section thirty of chapter four hundred and one of the laws of eighteen hundred and ninety-two, relating to licenses to common carriers.

APPROVED by the Governor March 10, 1893. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The sum of twenty-five hundred dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury not otherwise appropriated, for the payment by the comptroller of such clerical and other services and expenses as may be necessary to enable him to carry into effect section thirty of chapter four hundred and one of the laws of eighteen hundred and ninety-two, relating to licenses to common carriers.

§ 2. This act shall take effect immediately.

LAWS OF 1892, CHAP. 404.

AN ACT to create a board of excise commissioners for the county of Richmond.

APPROVED by the Governor April 30, 1892, 11 A. M. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The board of police commissioners of the county of Richmond, and two citizens, residents of said county shall hereafter constitute and be known as a "board of commissioners of excise" in and for the county of Richmond.

§ 2. The board of supervisors of the county of Richmond, shall within ten days after the passage of this act, meet and select by bal-

lot, two citizens and residents of the county of Richmond, who, together with the board of commissioners of police of said county, shall constitute a board of excise for said county. One of said persons shall be appointed for two years and one of said persons shall be appointed for four years, and the successors of said persons shall, upon the expiration of said terms, be appointed for four years, from the date of their appointment.

§ 3. All the powers and duties now conferred or which may be hereafter conferred upon "the board of excise" in the different towns of this state, shall apply to, or are hereby conferred upon said board, who shall have power to appoint such clerks and assistants as may be necessary to properly perform the duties of their office.

§ 4. The salary of the members of the said "board of excise" shall be fixed by the board of supervisors of the county of Richmond, and they shall also provide for the necessary expenses of the proper execution of the duties of the said board.

§ 5. Upon the organization of such board, the terms of office of all the excise commissioners in the county of Richmond shall cease, and all property and books in their possession shall be turned over and become the property of the board constituted by this act.

§ 6. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 7. This act shall take effect immediately.

CHAP. 294.

AN ACT to prohibit the sale and use of strong or spirituous liquors on board of excursion boats leaving New York city.

BECAME a law April 18, 1894, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. It shall not be lawful after eight o'clock in the evening for any person to sell, expose for sale, or give away any strong or spirituous liquors, beer, ale or wine, on board of any boat, barge or steamer, conveying excursion parties from any pier, dock or wharf within the limits of the city and county of New York, and intending to return on the afternoon, evening or night of the same day of leaving. This act shall not apply to the boats of any steamship company making regular trips between designated places.

§ 2. Any person violating any provision of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred nor more than five hundred dollars, or imprisonment for not less than one month nor more than six months, or by both such fine and imprisonment.

§ 3. This act shall take effect immediately.

Chapter 774 of 1895.

AN ACT prohibiting the sales of wines, liquors, beers, ales or cigars by the excise commissioner of any county, city, town or village, to saloon, hotel or drug-store keeper, et cetera.

APPROVED by the Governor, May 27, 1895. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. No excise commissioner or commissioners of any county, city, town or village shall sell, or be directly or indirectly interested in the sale of any wines, liquors, ales, beer, cigars, cigarettes, tobacco, ginger ale, soda water, sarsaparilla or any mineral water or shall recommend the purchase of the same to any saloon, hotel or drug-store keeper, or to any person or persons, who may have applied for, or is about to apply for, or has received a license from such commissioner or commissioners.

§ 2. Any commissioner or commissioners who shall violate any provision of this act, shall be deemed guilty of a misdemeanor, and shall be fined a sum of not more than two hundred and fifty dollars and not more than six months' imprisonment, and upon conviction his office shall be deemed forfeited and vacant, and such vacancy shall be filled as provided by law.

§ 3. This act shall take effect immediately.

24a

FORMS FOR EXCISE LAW.

Form No. 1. Excise Law, Section 7.

(For form of oath of office, see Form No. 6 under Town Law.)
(See, also, section 3, chapter 163 of 1890.)

Form No. 2. Excise Law, Section 7; Town Law, Section 61.

UNDERTAKING OF COMMISSIONER OF EXCISE IN TOWN.

WHEREAS, On the day of, 18.., was duly appointed (or elected) a commissioner of excise of the town of, in the county of, N. Y.; now, therefore, we, the said, as principal, and and as sureties, do hereby, jointly and severally, undertake to and with the said town of, in the penal sum of \$....., that the said will faithfully perform all the duties of commissioner of excise of the town of, that he will promptly pay over to the supervisor of the town of, within thirty days after the receipt thereof, and in accordance with law, all moneys received by him as such commissioner.

Dated this day of, 18..

.....
.....
.....

The mode of arriving at the amount of the penal sum in the undertaking and the manner of approval, are prescribed by section 7 of Excise Law.

(For form of acknowledgment and justification clauses and approval, see next Form.)

Form No. 3. Excise Law, Section 7.

UNDERTAKING OF COMMISSIONER OF EXCISE IN CITY.

WHEREAS, On the day of, 18.., was duly appointed (or elected) a commissioner of excise of the city of, in the county of, now, therefore, we, the said as principal, and and as sureties, do hereby undertake to and with the said city of, in the sum of \$, that the said will faithfully perform all the duties of commissioner of excise of said city of, and promptly pay over, in accordance with law, all moneys received by him as such commissioner.

Dated this day of, 18..

.....
.....
.....

STATE OF NEW YORK, }
COUNTY OF, } ss.:

On this day of, before me, the subscriber, personally appeared, and, known by me personally to be the per-

FORMS FOR EXCISE LAW.

sons described in and who executed the foregoing bond, and severally acknowledged that they executed the same.

Dated this day of, 18..

.....,
Justice of the Peace.

STATE OF NEW YORK, }
COUNTY OF, } ss.:

..... and, being duly sworn, says, each for himself, that he is a resident freeholder (or householder) in the city of, in the county of, and is worth the sum of \$..... over and above all debts owed or incurred by him, and exclusive of property exempt by law from execution.

Subscribed and sworn to before me, }
this day of, 18.. }

.....,
Justice of the Peace.

I hereby approve of the within bond, both as to its form and the sufficiency of the sureties therein.

.....,
Mayor of the City (or Supervisor of the Town of)

Form No. 4. Section 12. RECORD BOOK OF LICENSES.

DATE OF GRANTING.	Name of licensee.	Character and class of licenses.	Locality of premises.	Amount of fee.	Date of payment.	Name of sureties.	Residence of sureties.
1893, May 3 ..	—	Ale & Beer ..	10 State st..	\$30 00	1893, May 5 ..	{ —	45 State st.
1893, May 3 ..	—	Hotel	17 Pearl st	75 00	1893, May 7 ..	{ —	44 Pearl st.
						{ —	168 South st.
						{ —	17 State st.

Form No. 5. Section 16.

ANNUAL REPORT.

To the County Clerk of the County of

The undersigned, commissioners of excise of the town (or city) of, in said county, do hereby make the following report of their proceeding as such commissioners for the year ending with the 31st day of December, 18..

1. The following is a correct statement of the total number, and the number of each kind, of licenses issued during the year.

HOTEL	Saloon. liquor.	Saloon, ale and beer.	Store-keeper's.	Druggists'.	Special night license.	Total.

FORMS FOR EXCISE LAW.

2. The total amount received by the board during the year, on account of licenses granted thereby, was \$.....

3. The following is a correct statement of the expenses of the board during the year.

DATE	On what account.	Amount.
1892.....	To clerical services of —	\$20 65

4. (Statement of proceedings in general.)

Dated this....day of., 18..

Respectfully submitted.

.....,
.....,
.....,

Commissioners of Excise.

Form No. 6. Section 20.

APPLICATION FOR HOTEL LICENSE.

To the Board of Excise of the Town of., in the County of

Your petitioner,, respectfully shows that he is twenty-one years of age; that he is a citizen of the United States (unless the applicant held a license on April 29, 1892, in which case so state); that he is a resident of the State of New York, of good moral character, and is actually and beneficially interested, as an owner or proprietor of, and engaged in (or is to be engaged in) the business sought to be licensed; that the license of any former licensee of the premises, sought to be licensed, has not been revoked or annulled (or if revoked and annulled, that such former licensee has not and will not have any interest in the business sought to be licensed; or that such revocation has been annulled or set aside by a court empowered thereto, under the provisions of the Excise Law, or upon a determination of a board of excise made not earlier than one year after such revocation); that the premises sought to be licensed are not used as a court-house, or used or occupied wholly for State, county or municipal purposes (§ 18); that the premises sought to be licensed are not within two hundred feet of a building on the same street or avenue occupied exclusively as a church or school-house (§ 43), and that the only person (or persons) interested or to become interested in the business for which the license is sought is (or are) your petitioner(s) and (if any others, name them), and that there are upon the premises, for which the license is sought, the necessary accommodations for guests, viz.: at least three (if in a city, ten) bedrooms for guests. [The last clause is to be omitted from applications for other than hotel licenses.]

Wherefore, your petitioner hereby makes application for a license* to keep an inn, tavern or hotel, and to sell strong or spirituous liquors, wines, ale or beer, to be drunk on or off the licensed premises, at the place known as the.... Hotel, at No.street in the village (or city) of.....

Dated this....day of..... 189....

FORMS FOR EXCISE LAW.

STATE OF NEW YORK, }
COUNTY OF, } ss.:
Town of, }

....., being duly sworn, deposes and says that he is the applicant named in and who executed the foregoing application, and that the same is true.

Subscribed and sworn to before me, }
this day of, 18.... }

.....
Justice of the Peace.

If the applicants are partners state the names of the partners and say, "constituting the firm of" And if any member is not a citizen of the United States and a resident of this State, and was not licensed prior to April 30, 1892, the name and ineligibility of such member must be stated in the application. See § 20.

If the applicant is a corporation, the person making the application in its behalf shall set forth the nature of his authority to act for the corporation. And if the application is for a license for a business which does not exist at the time the application is made, but which it is the intention of the applicant or applicants to establish and carry on, it must be so stated in the application, together with such particulars relating thereto as may be required by the board of excise. See § 20.

Form No. 7. Section 20.

APPLICATION FOR SALOON LIQUOR LICENSE.

(Follow application for hotel license down to *, omitting clause as to accommodations for guests, and then add): to sell strong or spirituous liquors, wines, ale or beer, to be drunk on or off the licensed premises, at No. street, in the village (or city) of

Dated this day of, 18....

(Verify as in No. 6.)

Form No. 8. Section 20.

APPLICATION FOR SALOON ALE AND BEER LICENSE.

(Follow application for hotel license down to *, omitting clause as to accommodations for guests, and then add): to sell ale and beer only, to be drunk on or off the licensed premises, at No. street, in the village (or city) of

Dated this day of, 18....

(Verify as in No. 6.)

Form No. 9. Section 20.

APPLICATION FOR STORE KEEPER'S LICENSE.

(Follow application for hotel license down to *. omitting clause as to accommodations for guests, and then add): to sell strong or spirituous liquors, wines, ale and

FORMS FOR EXCISE LAW.

beer, not to be drunk on the licensed premises, at No. street, in the village (or city) of

Dated this day of, 18... ..

(Verify as in No. 6.)

With the application for a hotel or saloon liquor license, in case the applicant intends to locate in any public park, he must present to, and file with, the board of excise, the written consent of the park authorities. See Subd. 3, section 20 of Excise Law.

Form No. 10. Section 20.

APPLICATION FOR DRUGGIST'S LICENSE.

To Board of Excise of the Town of, in the County of

(Follow form No. 6, omitting clause as to accommodations for guests, down to and including the words "if any others, name them,") and then state: and that your petitioner is a duly licensed pharmacist.

Wherefore your petitioner hereby makes application for a license to sell, only upon a physician's written prescription to be but once used, strong and spirituous liquors, wines, ale and beer, not to be drunk on the licensed premises, at No. street, in the village (or city) of

Dated the day of, 18... ..

(To be verified as in Form No. 6.)

Form No. 11. Section 20.

APPLICATION FOR "ADDITIONAL LICENSE."

To the Board of Excise of the Town of, in the County of

Your petitioner, of the town of, in said county, respectfully shows that he has, at the time of making this application, a license for the sale of, at the place known as the Hotel, at No. street, in the village (or city) of, and that it appears that public necessity requires that sales be permitted upon such licensed premises between the hours of one and five o'clock in the morning, by reason of the following facts: (state the facts showing such necessity).

Wherefore, your petitioner hereby makes application for an additional license to sell strong and spirituous liquors, wines, ale and beer (or ale and beer, as the case may be), between the hours of one and five o'clock in the morning, to be drunk (according to the nature of the previous license of the applicant) upon said licensed premises, at No. street, in the village (or city) of

Dated this day of, 18... ..

(Verify as in Form No. 6.)

See subdivision 6 of section 19.

FORMS FOR EXCISE LAW.

Form No. 12. Section 20.

BOND OF HOTEL KEEPER.

Know all men by these presents, That we , residents of the of county of and State of New York, are held and firmly bound unto the People of the State of New York, in the penal sum of \$..... , to be paid to the said people; for which payment well and truly to be made, we bind ourselves, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, dated the day of , 18..

WHEREAS, The said has applied to the board of excise of the of for a hotel license, under and pursuant to "An act to revise and consolidate the laws regulating the sale of intoxicating liquors," passed April 30, 1891, and the acts amendatory thereof; now, therefore, the condition of this obligation is such that if the license applied for shall be granted, the applicant or applicants (copartners or corporation for whom or for which the application is made) will not, while the business so licensed shall be carried on, suffer the licensed premises to become disorderly, or suffer any gambling therein, or in any outhouse, yard or garden belonging thereto, and will not violate any provisions of the Excise Law, then this obligation to be void; else to remain in force.

Signed, sealed and delivered in }
presence of }

COUNTY OF , ss.:

On this day of , A. D. 18.., before me personally came , to me known to be the individuals described in and who executed the foregoing bond, and severally acknowledged that they executed the same for the uses and purposes therein mentioned.

COUNTY OF , ss.:

..... of the , in said county, being duly sworn, each for himself doth depose and say, that he is worth the sum of \$ above his just debts and liabilities, and his property exempt by law from levy and sale by virtue of an execution, and that he resides in the of and State aforesaid.

Subscribed and sworn to before me, }
this day of , 18.. }

We, the undersigned, commissioners of excise of , do hereby approve of the above bond both as to its form and as to the sufficiency of the sureties therein.

Dated at , this day of , 18..

(By favor of Avery Herriek, Publisher and Printer, Albany, N. Y.)

FORMS FOR EXCISE LAW.

Form No. 13. Section 20.

BOND — SALOON LIQUOR LICENSE.

Know all men by these presents, That we,, residents of the.....of....., county of... .., and State of New York, are held and firmly bound unto the People of the State of New York, in the penal sum of \$....., to be paid to the said people; for which payment, well and truly to be made, we bind ourselves, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, dated the....day of , 18..

WHEREAS, The said.....has applied to the board of excise of the.....of.....for a saloon liquor license, under and pursuant to "An act to revise and consolidate the laws regulating the sale of intoxicating liquors," passed April 30, 1892, and the acts amendatory thereof; now, therefore, the condition of this obligation is such that if the license applied for shall be granted, the applicant or applicants (or copartners or corporation for whom or for which the application is made) will not, while the business so licensed shall be carried on, suffer the licensed premises to become disorderly, or suffer any gambling therein, or in any outhouse, yard or garden belonging thereto, and will not violate any provisions of the Excise Law, then this obligation to be void; else to remain in force.

Signed, sealed and delivered in }
presence of }
.....

COUNTY OF....., ss.:

On this.....day of....., A. D. 18.., before me, personally, came....., to me known to be the individuals described in and who executed the foregoing bond, and severally acknowledged that they executed the same for the uses and purposes therein mentioned.

COUNTY OF....., ss.:

....., of the....., in said county, being duly sworn, each for himself doth depose and say, that he is worth the sum of \$..... above his just debts and liabilities, and his property exempt by law from levy and sale by virtue of an execution, and that he resides in the.....of.....and State aforesaid.

Subscribed and sworn before me, }
this day of, 18... }
.....

We, the undersigned, commissioners of excise of....., do hereby approve of the above bond, both as to its form and as to the sufficiency of the sureties therein.

Dated at....., this....day of....., 18.

(By favor of Avery Herrick, Publisher and Printer, Albany, N. Y.)

FORMS FOR EXCISE LAW.

Form No. 14. Section 20.

BOND—SALOON ALE AND BEER LICENSE.

Know all men by these presents, That we, residents of the of, county of, and State of New York, are held and firmly bound unto the People of the State of New York, in the penal sum of to be paid to the said people; for which payment well and truly to be made, we bind ourselves, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, dated the day of, 18 ..

WHEREAS, The said has applied to the board of excise of the of, for a saloon ale and beer license, under and pursuant to "An act to revise and consolidate the laws regulating the sale of intoxicating liquors," passed April 30, 1892, and the acts amendatory thereof; now, therefore, the condition of this obligation is such, that if the license applied for shall be granted, the applicant or applicants (or copartners or corporation for whom or for which the application is made) will not, while the business so licensed shall be carried on, suffer the licensed premises to become disorderly, or suffer any gambling therein, or in any outhouse, yard or garden belonging thereto, and will not violate any provisions of the Excise Law, then this obligation to be void; else to remain in force.

Signed, sealed and delivered }
in presence of }

.....

COUNTY OF, ss.:

On this..... day of, A. D. 18.., before me personally came, to me known to be the individuals described in and who executed the foregoing bond, and severally acknowledged that they executed the same for the uses and purposes therein mentioned.

COUNTY OF, ss.:

..... of the in said county, being duly sworn, each for himself doth depose and say, that he is worth the sum of above his just debts and liabilities, and his property exempt by law from levy and sale by virtue of an execution, and that he resides in the of and State aforesaid.

Subscribed and sworn to before me, }
this day of, 18... }

.....

We, the undersigned, commissioners of excise of do hereby approve of the above bond both as to its form and as to the sufficiency of the sureties therein.

Dated at this day of, 18..

.....
.....
.....

(By favor of Avery Herrick, Publisher and Printer, Albany, N. Y.)

FORMS FOR EXCISE LAW.

Form No. 15. Section 20.

BOND—STORE KEEPER'S LICENSE.

Know all men by these presents, That we,....., residents of the of, county of, and State of New York, are held and firmly bound unto the People of the State of New York, in the penal sum of \$....., to be paid to the said people; for which payment well and truly to be made, we bind ourselves, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, dated the day of, 18...

WHEREAS, The said ha.. applied to the board of excise of the of for a store keeper's license, under and pursuant to "An act to revise and consolidate the laws regulating the sale of intoxicating liquors," passed April 30, 1892, and the acts amendatory thereof; now, therefore, the condition of this obligation is such that if the license applied for shall be granted, the applicant or applicants, copartners or corporation for whom or for which the application is made, will not, while the business so licensed shall be carried on, suffer the licensed premises to become disorderly, or suffer any gambling therein, or in any outhouse, yard or garden belonging thereto, and will not violate any provisions of the Excise Law, then this obligation to be void; else to remain in force.

Signed, sealed and delivered in }
presence of }
.....

COUNTY OF, ss.:

On this day of, A. D. 18..., before me personally came, to me known to be the individuals described in and who executed the foregoing bond, and severally acknowledged that they executed the same for the uses and purposes therein mentioned.

COUNTY OF, ss.:

....., of the ... in said county, being duly sworn, each for himself, doth depose and say, that he is worth the sum of \$..... above his just debts and liabilities, and his property exempt by law from levy and sale by virtue of an execution, and that he resides in the of and State aforesaid.

Subscribed and sworn before me, }
this day of, 18.. }
.....

We, the undersigned, commissioners of excise of, do hereby approve of the above bond both as to its form and as to the sufficiency of the sureties therein.

Dated at, this day of, 18...

(By favor of Ivory Herrick, Publisher and Printer, Albany, N. Y.)

FORMS FOR EXCISE LAW.

Form No. 16. Section 20.

BOND— DRUGGIST'S LICENSE.

Know all men by these presents, That we,, residents of the of, county of and State of New York, are held and firmly bound unto the People of the State of New York, in the penal sum of \$....., to be paid to the said people; for which payment well and truly to be made, we bind ourselves, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, dated the day of, 18...

WHEREAS, The said have applied to the board of excise of the of for a druggist's license, under and pursuant to "An act to revise and consolidate the laws regulating the sale of intoxicating liquors," passed April 30, 1892, and the acts amendatory thereof; now, therefore, the condition of this obligation is such, that if the license applied for shall be granted, the applicant or applicants (or copartners or corporation for whom or for which the application is made) will not, while the business so licensed shall be carried on, suffer the licensed premises to become disorderly, or suffer any gambling therein, or in any outhouse, yard or garden belonging thereto, and will not violate any provisions of the Excise Law, then this obligation to be void; else to remain in force.

Signed, sealed and delivered in }
presence of }

.....

COUNTY OF, ss.:

On this day of, A. D. 18..., before me personally came, to me known to be the individuals described in and who executed the foregoing bond, and severally acknowledged that they executed the same for the uses and purposes therein mentioned.

COUNTY OF, ss.:

..... of the, in said county, being duly sworn, each for himself doth depose and say, that he is worth the sum of \$..... above his just debts and liabilities, and his property exempt by law from levy and sale by virtue of an execution, and that he resides in the of and State aforesaid.

Subscribed and sworn to before me, }
this day of, 18... }

.....

We, the undersigned, commissioners of excise of, do hereby approve of the above bond both as to its form and as to the sufficiency of the sureties therein.

Dated this day of, 18...

.....
.....
.....

(By favor of Avery Herriek, Publisher and Printer, Albany, N. Y.)

FORMS FOR EXCISE LAW.

Form No. 17. Section 22.

HOTEL LICENSE.

License expires , 18....

No.....

The board of excise of the.....of.....hereby certifies that being satisfied that.....of good moral character, and possessed of the qualifications required by law (including section 18 of the act hereinafter mentioned), to keep an inn, tavern or hotel at the place where such applicant ... propose ... to keep the same, as hereinafter stated, and that... ..such applicant ... may lawfully be licensed to carry on the business sought to be licensed upon the premises specified therefor in the application; and said applicant... having complied with section 20 of the act of the legislature hereinafter mentioned; now, therefore, a hotel license is granted to....., permitting sales in such inn, tavern or hotel, located at and in the premises.....in the said.... of.....of strong or spirituous liquors, wines, ale or beer, to be drank on or off the licensed premises, pursuant to the provisions of the act of the legislature of the State of New York, passed April 30, 1892, entitled "An act to revise and consolidate the laws regulating the sale of intoxicating liquors," and the acts amendatory thereof.

Witness our hands this....day of....., 18....

.....,
.....,
.....,

Commissioners of Excise of the.....of.....

....., Clerk.

(By favor of Avery Herrick, Publisher and Printer, Albany, N. Y.)

Form No. 18. Section 22.

SALOON LIQUOR LICENSE.

License expires....., 18....

No.....

The board of excise of the.....of.....hereby certifies that being satisfied that.....of good moral character, and possessed of the qualifications required by law (including section 18 of the act hereinafter mentioned), for a saloon liquor license at the place where such applicant ... propose ... to keep the same, as hereinafter stated, and that.....such applicant... may lawfully be licensed to carry on the business sought to be licensed upon the premises specified therefor in the application; and said applicant... having complied with section 20 of the act of the legislature hereinafter mentioned; now, therefore, a saloon liquor license is granted to....., permitting sales in such saloon, located at and in the premises.....in the said.....of....., of strong or spirituous liquors, wines, ale or beer, to be drank on or off the licensed premises, pursuant to the provisions of the act of the legislature of the State of New York, passed April 30, 1892, entitled "An act to revise and consolidate the laws regulating the sale of intoxicating liquors," and the acts amendatory thereof.

Witness our hands this....day of.... , 18....

.....,
.....,
.....,

Commissioners of Excise of the.....of.....

....., Clerk.

(By favor of Avery Herrick, Publisher and Printer, Albany, N. Y.)

FORMS FOR EXCISE LAW.

Form No. 19. Section 22.

SALOON LICENSE, ALE AND BEER ONLY

License expires, 18..

No.

The board of excise of the of hereby certifies that being satisfied that of good moral character, and possessed of the qualifications required by law (including section 18 of the act hereinafter mentioned), for a saloon ale and beer license at the place where such applicant... propose... to keep the same, as hereinafter stated, and that such applicant... may lawfully be licensed to carry on the business sought to be licensed upon the premises specified therefor in the application; and said applicant... having complied with section 20 of the act of the legislature hereinafter mentioned; now, therefore, a saloon ale and beer license is granted to permitting sales in such saloon, located at and in the premises in the said of of ale and beer only, to be drunk on or off the licensed premises, pursuant to the provisions of the act of the legislature of the State of New York, passed April 30, 1892, entitled "An act to revise and consolidate the laws regulating the sale of intoxicating liquors," and the acts amendatory thereof.

Witness our hands this day of, 18..

.....
.....
.....

Commissioners of Excise of the of

.....

Clerk.

(By favor of Avery Herrick, Publisher and Printer, Albany, N. Y.)

Form No. 20. Section 22.

STORE KEEPER'S LICENSE.

License expires, 18..

No.

The board of excise of the of hereby certifies, that being satisfied that of good moral character, and possessed of the qualifications required by law (including section 18 of the act hereinafter mentioned), for a store keeper's license, at the place where such applicant... propose... to keep the same, as hereinafter stated, and that such applicant... may lawfully be licensed to carry on the business sought to be licensed upon the premises specified therefor in the application; and said applicant... having complied with section 20 of the act of the legislature, hereinafter mentioned; now, therefore, a store keeper's license is granted to permitting sales in such store, located at and in the premises, in the said of of strong and spirituous liquors, wines, ale or beer, not to be drunk on the licensed premises, pursuant to the provisions of the act of the legislature of the State of New York, passed April 30, 1892, entitled "An act to revise and consolidate the laws regulating the sale of intoxicating liquors," and the acts amendatory thereof.

FORMS FOR EXCISE LAW.

This license authorizes the sale of strong and spirituous liquors, wines, ale and beer not to be drunk on the premises.

Witness our hands this day of , 18..

..... ,
..... ,
..... ,

Commissioners of Excise of the of

..... ,

Clerk.

(By favor of Avery Harrick, Publisher and Printer, Albany, N. Y.)

Form No. 21. Section 22.

DRUGGIST'S LICENSE.

License expires 18..

No.

The board of excise of the of hereby certifies that being satisfied that of good moral character, and possessed of the qualifications required by law (including section 18 of the act hereinafter mentioned), for a druggist's license, at the place where such applicant . . propose . . to keep a drug store, as hereinafter stated, and that such applicant . . may lawfully be licensed to carry on the business sought to be licensed upon the premises specified therefor in the application ; and said applicant having complied with section 20 of the act of the legislature hereinafter mentioned ; now, therefore, a druggist's license is granted to , permitting sales in such drug store, only upon a physician's written prescription, to be but once used, located at and in the premises, , in the said of of strong or spirituous liquors, wines, ale or beer, not to be drunk on the licensed premises, pursuant to the provisions of the act of the legislature of the State of New York, passed April 30, 1892, entitled "An act to revise and consolidate the laws regulating the sale of intoxicating liquors," and the acts amendatory thereof.

This license authorizes the sale by the licensee, while a licensed pharmacist, of strong and spirituous liquors, wines, ale and beer not to be drunk on the premises, and to be sold upon the written prescription of a physician, to be but once used.

Witness our hands this day of , 18..

..... ,
..... ,
..... ,

Commissioners of Excise of the of

..... ,

Clerk.

(By favor of Avery Harrick, Publisher and Printer, Albany, N. Y.)

Form No. 22. Section 19, Subd. 2.

An "additional license may be granted to persons holding either of the other kinds of license except a druggist's license, on compliance with the provisions of subdivision 6, section 19 of Excise Law.

FORMS FOR EXCISE LAW.

ADDITIONAL LICENSE.

License expires, 18...

No.

The board of excise of the.....of....., in the county of, N. Y., hereby certifies, that now holds a hotel license (or saloon liquor license, or saloon ale and beer license, or a store keeper's license), permitting sales in his inn, tavern or hotel (or other building, naming it), located at and in the premises,, in the said of and that it appears to said board that public necessity requires that sales be permitted upon such licensed premises between the hours of one and five o'clock in the morning; now, therefore, an additional license is granted to said to keep said licensed premises open between the hours of one and five o'clock in the morning, and to sell thereat, during such time, in pursuance of the terms, conditions and restrictions of his said hotel (or other) license, as long as it remains in force.

Witness our hands this day of, 18...

.....,
.....,
.....

Commissioners of Excise of the of

.....;

Clerk.

Licenses may be granted by the comptroller to persons, associations or corporations engaged in the business of common carriers of passengers by cars, steam boats or vessels, within the limits of this State, to sell to such passengers while in transit, without license by any board of excise. (Section 80 of Excise Law.)

No license granted by any board of excise will authorize the sale of strong or spirituous liquors, wines, ale or beer, in quantities of five gallons or upwards at a time. (Subdivision 7, section 19 of Excise Law.)

Form No. 23. Section 26.

PETITION TO CHANGE PREMISES LICENSED.

To the Board of Excise Commissioners of the Town of, in the County of

Your petitioner respectfully shows that on the day of, a saloon ale and beer license (or as the case may be) was granted to your petitioner, upon premises situated at No. street, in the village of, which license does not expire until the day of, 18.., and that by reason of (state reason), your petitioner desires to carry on such business upon other premises situated at No. street in said village;

Wherefore, your petitioner hereby makes application for permission to carry on the business authorized by said license upon such other premises, during the balance of the term of such license.

Dated this day of, 18...

.....

FORMS FOR EXCISE LAW.

Form No. 24. Section 26.

PERMISSION.

COUNTY OF....., }
TOWN OF....., } ss.:

WHEREAS, On the day of, 18.., a saloon ale and beer license was granted to, upon premises at No. street, in the village of; and

WHEREAS, Said has applied to us for permission to carry on the business authorized by such license at No. street in said village; and

WHEREAS, The reasons for such change appear satisfactory to us; now, therefore, we, the undersigned, commissioners of excise of the town of, do hereby grant a permission to the said, upon discontinuance of the licensed business upon the premises regularly licensed, to carry on such business at No. street in said village, during the balance of the term of such license, with the same rights and liabilities as though this permission was an original license therefor for the balance of such town.

Dated this day of, 18..

.....,
.....,
.....,

Commissioners of Excise of the Town of

Form No. 25. Section 26.

APPLICATION TO SELL, ASSIGN OR TRANSFER LICENSE.

To the Board of Excise of the Town of....., in the County of..... :

Your petitioner respectfully shows that on the...day of....., 18.., a saloon liquor license (or as the case may be) was granted to your petitioner upon premises at No. street, in the village of....., which license does not expire until the...day of....., 18.., and that by reason of (state reason), your petitioner desires to transfer said license to....., of said village, who, as appears by his application, hereto annexed, is a person qualified to become the holder of such license, pursuant to the provisions of the Excise Law.

Wherefore, your petitioner hereby makes application for permission to transfer said license to the said.....during the balance of the term of such license.

Dated this ... day of, 18...

(Attach verification clause.)

.....

An application by the transferee for the kind of license he desires should be attached. This application should contain all the allegations essential to an original application. (See Forms Nos. 6-10.)

FORMS FOR EXCISE LAW.

Form No. 26. Section 26.

PERMISSION OF BOARD TO TRANSFER.

COUNTY OF. } ss.:
TOWN OF....., }

WHEREAS, On the....day of....., 18.., a saloon liquor license (or as the case may be) was granted to....., upon premises at No .. street, in the village of.....; and,

WHEREAS, Said.....has applied to us for permission to transfer said license to....., of said village; and,

WHEREAS, It appears from the application of said..... that he is a person qualified to become the holder of such license, pursuant to the provisions of the Excise Law; now, therefore, we, the undersigned, commissioners of excise of the town of....., do hereby grant permission to the said..... to transfer such license to the said.....for the balance of the term of such license, with the same rights and liabilities to the said....., as though this permission was an original license therefor for the balance of such term.

Dated this....day of....., 18..

.....,
.....,
.....,

Commissioners of Excise of the Town of.....

This written permission must be posted with the original license, for the balance of such term, in the same manner as an original license is required to be posted during its continuance. (Section 26 of Excise Law.)

POWER OF EXCISE COMMISSIONERS.

The decisions of the courts have concurred in holding:

1. That no person has an absolute legal right to receive a license. People, *ex rel.* Jones, *v.* Bennett, Justice Herrick at Special Term; People, *ex rel.* Decker, *v.* Waters; People, *ex rel.* Martin, *v.* Symonds, both by Justice Parker at Special Term.

The above cases will be reported in No. 13 of the Combined Official Series, issued by Banks & Brothers.

2. That the granting or withholding of a license is within the discretion of the commissioners of excise. *Id.*

3. That, where the application for a license has been received and acted upon, and the discretion of the commissioners exercised whether they will or will not grant a license, and if, in the exercise of that discretion, they have not proceeded upon illegal grounds or principles, the conclusion, at which they arrive upon such exercise of their discretion, will not be disturbed by the court. *Id.*

4. That the court itself is not vested with the powers of excise commissioners, and will not determine whether a license should or should not be granted. *Id.*

Three other cases have been decided at Special Term, one by Justice Brown, one by Justice Bradley and the other by Justice McLennan, but no opinion was handed down in either case.

Excise commissioners cannot refuse to grant licenses on the sole ground that they were elected as no-license commissioners.

In People, *ex rel.* Martin, *v.* Symonds, *ante*, where the commissioners of excise refused to grant a license upon the ground "that the majority of the board were elected by the people of the town for the purpose of refusing to grant licenses," the application was sent back to them for their consideration and determination. They did not exercise their discretion and consider the application upon the merits, but acted upon a misapprehension of the law, that amounted to a legal error, which could be reviewed by *certiorari*.

Though a majority of the excise commissioners are elected upon a no-license ticket, and with the express understanding that they will not grant licenses for the sale of intoxicating liquors, yet, if they recognize the fact that they have the power vested in them, notwithstanding the purpose of their election, to grant or withhold licenses, consider the application upon its merits and refuse to grant it for the reason, among others, that a license is not needed at the applicant's hotel, and that the sale of intoxicating liquors thereat would result injuriously to the community, their decision is not reviewable by the court upon *certiorari*. People, *ex rel.* Jones, *v.* Bennett, *ante*.

Commissioners of excise may, in the exercise of their discretion, limit the number of licenses granted by them, and refuse to issue a

license because there are already a sufficient number of places and persons licensed to sell liquor in their town, and an additional license is not needed. *Id.*

There is a conflict of authority upon the question as to the existence of local option by statute in this State. Justices Brown and Parker have held, at Special Term, that no local prohibition exists in fact, and in this opinion Justice Herrick, at Special Term, in *People, ex rel. Jones, v. Bennett, ante*, seemingly concurs. Justice Bradley, at Special Term, inclines positively to the opposite opinion. The appellate courts will have to settle definitely the question. Probably all of the Special Term cases will be appealed; but, undoubtedly, the points above stated, upon which the decisions have been uniform, will not be disturbed.

INDEX.

(References are to Sections.)

A.

Actions, for credit sales of liquor, etc., drank on premises.....	40
Additional license, in cases of public necessity.....	19
Adulteration of liquors, conviction for, revokes license.....	27
Ale and beer, license for sale of, only, in cities and towns.....	19
Aliens, cannot be licensed.....	18
Amount of license fee in record-book.....	12
Annual report of boards of excise.....	16
Applicants for license, one or more may apply.....	19
Application for license, how made and contents.....	20
of excise law, extent of	19
Applications, etc., blanks, to be furnished by board	1
Application of this act.....	45
Appointment of commissioners in cities	5
Appointments by boards of excise in cities.....	10
Approval of character of licensee, by boards, etc.....	18
of commissioners, by whom made	7
of early morning licenses, how made.....	19
of licensee's bond.....	21
Assignment, etc., of license, permission to be posted.....	26
of license, when allowed.....	26
Attorney for board of excise in cities.....	10
of board of excise in towns.....	11

B.

Ballots, separate, for election of commissioners	4
Bedrooms in cities and towns for hotel licenses.....	19
Beer and ale, licenses for sale of, only, in cities and towns.....	19
Board of commissioners.....	7
Board of excise, how constituted.....	2
in cities, appointments by.....	10, and § 1 of chap. 403
Boards of excise, meetings of.....	17
incidental expenses of	9
powers of court over on certiorari.....	24
records of.....	12
reports of convictions to.....	37
to report annually.....	16
Bond for license, form and contents of.....	20
Books and stationery, board may procure.....	9
Brooklyn, commissioner in, how salary fixed.. ..	8

C.

Canceling license for violations of this act.....	42
Cars, licenses on.....	20
Certiorari, to review revocation of license.....	29
upon refusal to grant license.....	24
Child, illegal sales to.....	32
Churches, restrictions as to licensing places in vicinity of.....	43
Cities, hotel licenses in.....	19
saloon ale and beer license in.....	19
saloon liquor licenses in.....	19
storekeeper's license in	19
City commissioners, charter providing for election of, not affected.....	5
Citizens, only, can be licensees	18
Civil actions for credit sales of liquors	40
prosecution of, by boards of excise.....	14
Civil damages, provision for § 40 and chap. 403 of 1892	
Classification of licenses.....	19
Clerk of excise board in cities, appointment and powers of.....	10
and § 1 of chap. 403	
Compensation of clerk of excise board in cities.....	10
and § 1 of chap. 403	
of commissioners of excise	8
Complaints to boards of excise, of violations.....	42
Commander, intemperate, not to be employed.....	39
Commissioners must be citizens and residents.....	8
of excise, appointment of, in cities	5
appointment to fill vacancy.....	5
bond of.....	7
compensation of.....	8
constitute board of.....	2
election of, in cities.....	5
in towns.....	4
election to fill vacancy.....	5
oath of.....	7
removal of	6
term of, in cities and towns	4
when to forfeit office.....	42
Common carriers, comptroller to license	30
forbidden to employ persons habitually intemperate.....	39
Common council, fix commissioners' salaries.....	8
to approve early morning licenses.....	19
Comptroller, license fee, application of.....	30
license fees fixed by.....	30
to license common carriers	30
Conductor, intemperate, not to be employed.....	39
Construction of repealing clause.....	45
Contents of application for license	20
Contents of license.....	22
Convictions of licensees to be reported to boards of excise	37
Conviction, revocation of license by	27

Conviction of store-keeper or druggist, when it forfeits license..	27
under this act, when it revokes license.....	28
Costs, when to be against city or town.....	14
County building, license not to be issued for.....	18
County judge may remove commissioner.....	6
Court-house, license not to be issued for.....	18
Court, powers of, on certiorari.....	24
Credit sales, to be drank on premises, actions for.....	40
Criminal conviction, revocation of license by.....	27

D.

Date of license kept in record-book	12
Death of licensee, transfer of license upon.....	25
Different licenses to one applicant. .21, and chapter 402, Laws of 1892	
Disorderly conduct, public intoxication is	35
Drug store license..... 19, and chapter 402, Laws of 1892	
Druggist, may have both druggist's and storekeeper's license....	
chapter 402 of 1892.	
Druggist's license, contents of.	23
to be only issued to licensed pharmacist	19
Druggists, sales by, on prescription	32
conviction of, forfeits license.....	27

E.

Early morning license, when allowed	19
Election day, illegal sales on	32
of city commissioners, when allowed	5
of commissioners in towns	4
Eligibility to office of excise commissioner	3
Employes of common carriers, habitually intemperate persons not to be employed	39
of commissioners in New York and Brooklyn, expenses for, how determined	8
Engineer, intemperate, not to be employed	39
Excise, boards of, how constituted	2
commissioner, qualifications for	3
law, secretary of state to distribute copies of	44
Existing licenses, preserved	45
penalties, preserved	45
rights, preserved	45
Expenses, incidental, of boards of excise	9
of commissioners of excise, how audited in cities	8
Expiration of license, time of	19
Extent of application of this act	1
Extra compensation not allowed commissioners	8

F.

Fair, illegal sales in vicinity of.....	32
Fee for period less than a year to be proportioned.....	19
Fees, classification of, for licenses.....	19
for drug-store license	19

Fee for early morning license.....	19
Fees for hotel licenses in cities.....	19
for hotel licenses in towns.....	19
for inn license.....	19
for license, amount of, in record-book	12
for license for sale of ale and beer.....	19
for saloon liquor license.....	19
for storekeeper's license.. ..	19
for tavern license.....	19
from licenses, how applied and disbursed.....	15
from licenses, payment over of, by commissioners.....	15
Fee, to be paid upon receiving license	19
Felony, conviction of, revokes license	28
Female, when sale or service by, prohibited.....	28
Filing of bond of commissioners	7
of oath of commissioners.....	7
Foreman, intemperate, not to be employed.....	39
Forms of license.....	22
Fraud and false representations, license procured by, may be revoked.	28

G.

General provision for violation of excise act	36
Governor to approve removal of commissioners	6
Grant of license, when should be made	21
Granting licenses, prohibition upon.....	18
Grocers, prohibition upon licenses to.....	19, 28
Guests of hotels, etc., sales to, allowed.....	32

H.

Habitual drunkard, illegal sales to	32
Hearing to be given commissioner before removal.....	6
Hotel guests, sales to, allowed	32
keepers, license of	19
license, fee for.....	19
Hotel, failure to maintain, license may be revoked	28
House of refuge, liquors, etc., in.....	34

I.

Illegal sales after notice by husband, etc.....	32
with or without license.. ..	32
without license	31
Incidental expenses of boards of excise	9
Indian, illegal sales to.....	32
Inn-keepers, license of.....	19
Inn, license fee for.....	19
failure to maintain, license may be revoked.....	28
Intemperate persons not to be employed by common carriers....	38
Intoxicated person, illegal sales to.....	32
Intoxication, public, punishment of.....	35
Investigations by board, witnesses, etc., at.....	13, 42

J.

Jail, liquors, etc., in.....	34
Judgment in favor of one sued for penalty, costs on.....	14
unsatisfied for penalty, license may be revoked for.....	28
Justice of the peace, not eligible as commissioner.....	3
Justification of sureties on bond for licenses.....	20
Juvenile reformatory, liquors, etc., in.....	34

K.

Keeper of drug store, license of.....	19 and chap. 402 of 1892
of store, liquors, etc., license	19

L.

Laws repealed.....	Table of laws and sec.	45
special and local, how far superseded		1
License, application for, how made, and contents		20
bond for, form and contents of.....		20
certiorari after refusal of.....		24
court may direct one, on certiorari.....		24
expiration of		19
Licenses, classification of.....		19
Licensees, conviction of, to be reported		37
death of, transfer of license.....		25
License fees for comptroller's license.....		30
License fee for drug stores		19
for early morning license... ..		19
for hotel.....		19
for inn.....		19
for sale of ale and beer only.....		19
for saloon		19
for saloon, liquor license		19
for storekeeper's license		19
for tavern		19
fees, how applied and disbursed.....		15
fee less than a year, proportionate.....		19
fees, payment over of, by commissioners.....		15
fee to be paid upon receiving license.....		19
forms of.....		22
grant of, when to be made		21
illegal sales, with or without.....		32
illegal sales without.....		31
not to authorize sales of five gallons or upwards.....		19
Licensed premises, rights of officers on.....		38
License, revocation, grounds for	27,	28
revoked by conviction		27
premises, when not re-licensed.....		18
sale, assignment or transfer of.....		26
sales in violation of.....		33
Licensee, name of each, in record-book		12
qualifications of.....		18
Licenses, not to be granted within fixed distance of school or church		43

Licenses, posting of	23
prohibitions upon granting	18
when one or more may be granted	21
Liquor, etc., dealer or manufacturer not eligible as commissioner.	3
Liquors, etc., license for, not to be drank on premises.....	19
Liquor license, for saloons, in cities and towns	19
Local laws, how far superseded.....	1
Local option, not affected by this act	41
Locality of licensed premises in record-book.....	12

M.

Magistrate, illegal sale after notice by	38
Mate, intemperate, not to be employed.....	39
Mayors of cities, when to appoint commissioners.....	5
to fix penalty of commissioners' bonds.....	7
may remove commissioner	6
Meetings of excise boards.....	17
Minors, cannot be licensees	18
Minutes of boards, what to contain.....	12
Miconduct, cause for removal of commissioner	6
Misdemeanors.	
selling without comptroller's license.....	30
license generally	31
on Sunday	32
in morning.....	32
on election day	32
at fairs.....	32
to child.....	32
to intoxicated person.....	32
to pauper	32
to habitual drunkard	32
to Indian	32
to forbidden person after notice	32
sales other than on licensed premises	33
selling to be drank on other than licensed premises.....	33
selling liquors, on ale and beer license.....	33
selling to be drank on premises on storekeeper's license	33
sale by druggist, without prescription	33
bringing in or selling liquor in public institution.....	34
public intoxication.....	35
wilful violation of excise act, generally	36
common carrier, etc., employing intemperate person, etc...	39
commissioners failing to comply with excise act.....	42
Moneys received for licenses, how disbursed.....	15
Moral character of licensee.....	18
Morning, early hours, license covering.....	19
illegal sale in.....	32
Municipal building, no license for.....	18

N.

Name, in which suits brought by board	14
Neglect to sue by board for penalty.....	14

New York, salary of commissioners, how fixed	8
Non-residents cannot be licensed	18
cannot be or continue commissioner	3
Notice by husband, etc., illegal sales after	32
of charges to be given commissioners	6

O.

Oath of commissioners	7
to witnesses before board	13, 42
Officer, of institution, removal for allowing illegal sale, etc	34
right of, on licensed premises	38
Overseer of poor, notice by, sale after	32

P.

Pauper, illegal sale to	32
Payment over of receipts by commissioners	15
Parks, authorities over, to consent to licenses	20
Penalty of commissioners' bonds	7
for selling without comptroller's license	30
for taking security for sales on credit	40
judgment for, revokes license	28
neglect to sue for	14
suits for, by boards	14
Penitentiary, liquors, etc., in	34
Personal representatives of deceased licensees	25
Persons not eligible as commissioners	3
Pilot, intemperate, not to be employed	39
Poor-house, liquors, etc., in	34
Posting of permission to assign, etc., license	26
licenses	23
Powers of court on certiorari	24
Premises, license for liquor, etc., not to be drank on premises	19
license of, revoked, when not re-licensed	18
license to be posted in	23
licensed, locality of, in record-book	12
licensed, what are forbidden as	18
Prescription, by physician, provision for	19
for liquor in public institution	34
Prescriptions, sales on, allowed	32
President of village not eligible as commissioner	3
to approve early morning license	19
Prohibitions upon granting licenses	18
Proportionate fee for less than a year	19
Prosecution by boards of excise of civil actions	14
Protectory, liquors, etc., in	34
Public institutions, sale of, etc., in, forbidden	34
Public intoxication, punishment of	35
Public necessity, additional license, in cases of	19
Purchase-price of liquors drank on premises, actions for	40

Q.

Qualifications for excise commissioner.....	3
Quorum of board of three is a majority.....	2

R.

Reasons for refusal of license to be filed.....	24
Receipts from licenses, how applied and disbursed.....	15
Records, books of boards, what to contain	12
of excise boards, where kept.....	12
open to public inspection.....	12
Reformatory, liquors, etc., in.....	34
Refusal of license, statement of reasons to be filed.....	24
certiorari upon.....	24
Removal of commissioners.....	6
reasons for, filed and sent to governor.....	6
of public officers for allowing illegal sale or use of liquor....	34
Report of boards of excise, when made, and contents.....	16
of conviction, to boards of excise.....	37
Residents only can be licensed.....	18
Resolutions granting or refusing licenses, how preserved.....	12
Return to certiorari, by board.....	24
Reversal of conviction restores license.....	28
Revocation of license by board, grounds for.....	28
by conviction.....	27
reversal of, restores license.....	28
for violation of this act.....	42
certiorari to review.....	29
when same premises not re-licensed.....	18
Rights of officers on licensed premises.....	38

S.

Salary of attorney of board in cities.....	10
of attorney in towns.....	11
of clerk of board in cities	10
(See, also § 1 of chap. 403, laws 1892.)	
of commissioners of excise, how audited in cities.....	8
Sale, of license, when allowed	26
of liquor, in violation of license	33
of liquor without license, misdemeanor.....	30, 31
Saloon, ale and beer license, cities and towns.....	19
liquor license, cities and towns....	19
Schools, restrictions as to places near.....	43
Security for sales on credit, when void	40
Selling in violation of license.....	33
without license, misdemeanor.....	30, 31
Special laws, how far superseded.....	1
Special license, expiration of.....	19
State building, license not to be issued for.....	18
Statement of reasons for refusing license.....	24
Stationery, excise boards may procure.....	9
Steamboats, licenses on	30

Storekeeper's license.....	19
contents of.....	22
Subpoenas, may be issued by excise board.....	13, 42
Successors of deceased licensee, transfer to.....	25
Suit by board, in whose name brought.....	14
Sunday, illegal sales on.....	32
Supervisor of town to fix penalty, etc. of commissioner's bond..	7
not eligible as commissioner.....	3
Sureties on licensee's bonds.....	20
record of, to be kept.....	12
Switch-tender, intemperate, not to be employed.....	39

T.

Tavern, license fee for.....	19
Term of license.....	19
Term of office, commissioners in cities.....	5
in towns.....	4
of existing commissioners.....	2
Time of taking oath by commissioners.....	7
Title, act to be known by.....	1
Three commissioners, number reduced to.....	45
Towns, partly in city, how affected by act.....	4
election of commissioners in.....	4
commissioners in, salary.....	8
removal of.....	6
hotel licenses in.....	19
saloon-keepers' licenses in.....	19
storekeepers' licenses in.....	19
early morning licenses, to be approved by town board.....	19
Transfer of license, when allowed.....	26
on death of licensee.....	25
Trustee of village may not be commissioner.....	3

V.

Vacancy, election to fill, in towns.....	4
occasioned by non-residence ..	3
other than by expiration, how filled ..	4
Vessels, licenses on.....	30
Violation of license, sales in.....	33
willful, a misdemeanor.....	36

W.

Willful neglect cause for removal of commissioner.....	6
violation of act, a misdemeanor.....	36
Witnesses, board may compel attendance before, by subpoena..	13, 42

GENERAL INDEX

TO

STATUTORY CONSTRUCTION LAW, GENERAL CORPORATION LAW, STATE LAW, EXECUTIVE LAW, LEGISLATIVE LAW, PUBLIC BUILDINGS LAW, GENERAL MUNICIPAL LAW, COUNTY LAW, TOWN LAW, PUBLIC OFFICERS LAW, HIGHWAY LAW, ELECTION LAW AND EXCISE LAW.

[Reference to paging in index is to page of law specifically named therein.]

A

Abatement of highway tax.

		SECTIONS.	PAGE.
For removal of fence	High. L.,	72	28
For erecting street lamps	High. L.,	73	23
For planting trees	High. L.,	44	15
For watering trough	High. L.,	48	16

Academies, incorporated, limits of property removed.	Gen. Corp. L.,	12	12
--	----------------	----	----

Accounts.

Against county, how made out and audited	{ Co. L.,	24-5	9
not to be withdrawn after presentation	{ Co. L.,	50, sub. 5	14
abstracts of, to be published by clerk of supervisors	{ Co. L.,	24	19
Against town, generally, how made out and audited.	Co. L.,	51	15
for highway labor and material, how made out and audited	Town L.,	160-8	36
abstracts of, to be transmitted to supervisors ..	High. L.,	12	5
to be published by clerk of supervisors ...	Town L.,	170	43
	Town L.,	170	43
	Co. L.,	51	15

Against state. See COMPTROLLER, ETC.

Acknowledgment.

Defined, officers who may take	Stat. Const. L.,	15	3
By commissioners of deeds outside the state	Exec. L.,	88-9	16

Actions.

By or against county to be in county name for county rights or liabilities	Co. L.,	8	2
By or against town to be in town name for town rights or liabilities	Town L.,	183	41
By commissioners of highways of town in town name, in highway matters	High. L.,	15	7
By town, may be directed to be brought by town meeting	Town L.,	24, sub. 5	6

Affidavit, defined, to include affirmation, etc	Stat. Const. L.,	14	3
---	------------------	----	---

[Reference to paging in index is to page of law specifically named therein.]

	SECTIONS. PAGE.	
Albany, city of, excepted from general law as to dog tax	Co. L.,	111 27
Alderman, of city, when to be a fence viewer	Town L.,	134 30
Alumni associations.		
Power to hold property	Gen. Corp. L.,	12 12
Amendatory statutes, effect of repeal of	Stat. Const. L.,	31 7
Animals. See, also, DOGS; SHEEP.		
Strayed, town meeting may make regulations for impounding.....	Town L., 24, sub. 9	6
doing damage may be impounded.....	Town L.,	123 27
lien upon, by owner of land damaged by	Town L.,	120-24 26
Trespassing, on land of person not maintaining proper division fence	Town L.,	107-8 25
on lands lying open.....	Town L.,	101 23
Wild, town may offer rewards for destruction of... county may offer rewards for destruction of.... county may provide for preservation of	Town L., 24, sub. 5 Co. L., 12, sub. 7 Co. L., 12, sub. 8	7 3 3
Appeals.		
By non-residents from highway labor assessments..	High. L.,	36 13
By highway commissioners from order to build or repair bridge.....	High. L.,	140-1 39
From town board's audit to supervisors.....	Town L.,	163 43
Appeals, Court of. See COURTS.		
Appointment. See, also, PUBLIC OFFICERS.		
Of public officers, by governor and senate, how made	Pub. Off. L.	7 3
To fill vacancy in town office, how made, where filed.....	Town L.,	65 19
Apportionment.		
Of division fence, how made.....	Town L.,	100 23
Of county debts, on division or alteration of county.	Co. L.,	4 1
Of town debts, on division or alteration of town....	Town L.,	4 2
Arms.		
State.		
description and use of.....	State L.,	40 77
other pictorial devices in public offices and on stationary prohibited.....	State L.,	43 76
Assembly. See LEGISLATURE.		
Assessments.		
Of highway labor. See HIGHWAYS.		
Supervisors may correct manifest clerical or other errors.....	Co. L.,	16 6
Assessment-rolls.		
To include dog tax assessments.....	Co. L.,	113 26
Compensation of supervisors for copies of	Co. L.,	23 8
Assessors.		
Of town, are local officers	Pub. Off. L.,	2 1
who eligible to office of.....	{ Pub. Off. L., Town L.,	3 2 50 15
number of, in each town; term of office.....	{ Town L., Town L.,	15 5 12 5
to hold over until successors chosen and qualified	{ Pub. Off. L., Town L.,	5 2 12 5
when and how elected	{ Town L., Town L.,	20 7 20 7
ballots for, for full term and vacancies; at first election in town.....	{ Elect. L.,	63 26

[Reference to paging in index is to page of law specifically named therein.]

Assessors — Continued.

	SECTIONS.	PAGE.
Of town, vacancies in office of, how created.....	Pub. Off. L.,	20 7
how filled.....	{ Town L.,	12 5
	{ Town L.,	65 19
notice to, of their election, how given.....	Town L.,	39 12
acceptance of office of, how signified.....	Town L.,	51 15
	{ Town L.,	51 15
	{ Town L.,	56 17
oath of office of, by whom administered; when and where to be filed; effect of failure to file.	Pub. Off. L.,	10 4
	{ Pub. Off. L., 20, sub. 7	7 7
notice of neglect to file oath, to be given by town clerk to town board.....	Pub. Off. L.,	18 6
resignations of, how made; when to take effect..	{ Pub. Off. L.,	21 7
	{ Town L.,	64 19
compensation of,	Town L.,	178 40
are fence viewers.....	Town L.,	23 6
Generally (except in counties of Kings and Westchester and cities of Albany, Buffalo and New York).		
duties of, in assessing dog tax.....	Co. L.,	112-8 28

Associations. See BAR ASSOCIATIONS, ETC.**Attorney-General.**

Is a state officer.....	Pub. Off. L.,	2 1
Who eligible to office of	Pub. Off. L.,	8 2
Oath of office of, by whom administered; when and where to be filed; effect of failure to file....	{ Pub. Off. L.,	10 4
	{ Pub. Off. L.,	20 7
Notice of neglect to file oath, to be given by secretary of state to legislature or governor.....	{ Pub. Off. L.,	18 7
	{ Pub. Off. L.,	80-1 11
Vacancy in office of:		
how created.....	Pub. Off. L.,	20 7
how filled.....	Pub. Off. L.,	80-1 11
May be removed from office by senate, on recommendation of governor.....	Pub. Off. L.,	23 8
Resignation of, how made; when to take effect....	Pub. Off. L.,	21 7
Salary and expenses of.....	Exec. L.,	50 7
Deputies of, how appointed; compensation of.....	Exec. L.,	51 7
powers of; chief deputy, how designated.....	Pub. Off. L.,	9 8
Additional counsel, may be employed by.....	Exec. L.,	55 8
General powers and duties of.	Exec. L.,	52 7
Costs recovered by, disposition of; account thereof to comptroller.....	Exec. L.,	53 8
Register of actions and proceedings, to be kept and delivered to successor.....	Exec. L.,	54 8
Annual report of, to legislature.....	Exec. L.,	56 8
Special reports of, to legislature, when to be made..	Exec. L.,	70 10
Authorized to visit county jails and work-houses...	Co. L.,	108 27

Auditors.

Board of, for town, when may be chosen independent of town board.	Town L.	172-6 188
---	---------	-----------

B**Ballots; ballot-boxes; ballot law. See ELECTIONS; TOWN MEETINGS.****Ballot clerks.**

Are local officers.....	Pub. Off. L.,	8 2
Who eligible to office of	{ Pub. Off. L.,	5 2
	{ Elect. L.,	12 9

[Reference to paging in index is to page of law specifically named therein.]

Ballot clerks — Continued.

SECTIONS. PAGE.

Number of, in each election district; how appointed; term of office.....	Elect. L.	12	9
Vacancies in office of, how filled; absences of, how supplied.....	Elect. L.,	12	9
Oath of office of, to be taken; by whom administered; when and where to be filed; effect of failure to file.....	Elect. L.,	12	9
Notice of neglect to file oath to be given.....	Pub. Off. L.,	10	4
Resignation of, how made; when to take effect.....	Pub. Off. L.,	20	7
Compensation of.....	Pub. Off. L.,	13	6
General duties of.....	Pub. Off. L.,	21	7
	Elect. L.,	17	11
	Elect. L.,	103	35
	Elect. L.,	106	38

Baptist Historical Society, repealed law relating to, restored.....

Gen. Corp. L., 37 29

Bank (DOMESTIC CORPORATION). See STOCK CORPORATIONS.

is a moneyed corporation.....	Gen. Corp. L.,	8	2
Incorporation of:			
qualifications of incorporators.....	Gen. Corp. L.,	4	3
certificate of incorporation:			
corporate name designated in, must differ from name of existing corporation.....	Gen. Corp. L.,	6	4
at least two of directors named in, must reside in this state.....	Gen. Corp. L.,	29	21
may provide for cumulative voting at elections of directors.....	Gen. Corp. L.,	20	15
taxes and fees to be paid before filing.....	Gen. Corp. L.,	5	3
lost or destroyed may be replaced.....	Gen. Corp. L.,	8	6
amendment of.....	Gen. Corp. L.,	7	5
presumptive evidence of incorporation.....	Gen. Corp. L.,	9	6
Must commence business within two years, or charter forfeited.....	Gen. Corp. L.,	31	25
Corporate powers:			
none except expressly granted or necessarily implied.....	Gen. Corp. L.,	10	7
general powers granted.....	Gen. Corp. L.,	11	10
By-laws of:	Gen. Corp. L.,	14	12
may be made by stockholders to control directors, directors may make, if stockholders do not....	Gen. Corp. L.,	11	10
regulating election of directors to be published	Gen. Corp. L.,	29	21
may regulate transfers of stock, if certificate of incorporation does not.....	Gen. Corp. L.,	11	10
may fix quorum of directors, if certificate of incorporation does not.....	Gen. Corp. L.,	11	10
Corporate meetings and elections:			
quorum at, how fixed.....	Gen. Corp. L.,	28	19
qualifications of voters; proxies; challenges, qualifications and oaths of inspectors; conduct of election.....	Gen. Corp. L.,	11	10
cumulative voting at elections of directors....	Gen. Corp. L.,	20-2	15
special elections of directors, when and how held	Gen. Corp. L.,	20	15
Stockholders of. See CAPITAL STOCK; CORPORATE MEETINGS AND ELECTIONS, above.	Gen. Corp. L.,	24-6	18
are members of corporation.....	Gen. Corp. L.,	8	2
may make by-laws to control directors....	Gen. Corp. L.,	11	10
elections of directors by, proxies, challenges, etc.	Gen. Corp. L.,	29	21
meetings of, quorum to be fixed by by-laws or certificate of incorporation.....	Gen. Corp. L.,	20-2	15
	Gen. Corp. L.,	11	15

[Reference to paging in index is to page of law specifically named therein.]

Bank — Continued.

SECTIONS. PAGE.

Directors of:

defined.....	Gen. Corp. L.,	3	2
at least two must reside in this state.....	Gen. Corp. L.,	29	21
to hold over until successors chosen and qualified.....	Gen. Corp. L.,	23	17
election of, regulated.....	Gen. Corp. L.,	20-2	15
quorum, otherwise by by-laws of directors.....	Gen. Corp. L.,	29	21
to manage affairs of bank, subject to by-laws of stockholders.....	Gen. Corp. L.,	11	10
to be trustees in case of dissolution.....	Gen. Corp. L.,	29	21
may execute amended certificate of incorporation.....	Gen. Corp. L.,	30	22
amended certificate of incorporation to be executed by.....	Gen. Corp. L.,	7	5
	Gen. Corp. L.,	7	5

Bank (FOREIGN CORPORATION).

Defined.....	Gen. Corp. L.,	3	2
Acquisition of real property in this state by.....	Gen. Corp. L.,	17-18	14

Banking, unauthorized, prohibited.....	Gen. Corp. L.,	19	15
---	----------------	----	----

Banking Law, The.

Relation of, to laws repealed by.....	Stat. Const. L.,	31-2	7
to laws passed at same session, or before taking effect.....	Stat. Const. L.,	33	7
Application to previous corporations.....	Gen. Corp. L.,	33-6	28
Provisions of General Corporation Law and Stock Corporation Law yield to conflicting provisions of other corporate laws.....	Gen. Corp. L.,	33	28

Banks. See BANK.

Bar associations, power to hold property.....	Gen. Corp. L.,	12	12
--	----------------	----	----

Bargain and sale. See REAL PROPERTY.**Beasts. See ANIMALS.****Beer. See EXCISE; ADULTERATION.**

Bicycles, entitled to free use of highways and public places.....	High. L.,	168	48
--	-----------	-----	----

Bill. See LEGISLATURE; BANK; BILLS AND NOTES.

Board or body, notice given to, by service on clerk or chairman of.....	Stat. Const. L.,	20	4
--	------------------	----	---

Boards.

Of supervisors. See SUPERVISORS.

Of town auditors. See TOWN, ETC.

Boards of trade, power to hold property.....	Gen. Corp. L.,	12	12
---	----------------	----	----

Bonds, defined to include undertaking.....	Stat. Const. L.,	16	4
---	------------------	----	---

Boundaries of state.....	State L.,	2-7	2
---------------------------------	-----------	-----	---

Bridge corporations.**Incorporation of:**

qualifications of incorporators.....	Gen. Corp. L.,	4	3
certificate of incorporation, defined.....	Gen. Corp. L.,	3	2
contents and execution of; original to be filed in office of secretary of state; duplicate or certified copy in county clerk's office.....	Gen. Corp. L.,	5	3

[Reference to paging in index is to page of law specifically named therein.]

Bridge corporations — *Continued.*

SECTIONS. PAGE.

Construction of bridge, mode of, location, obstructions to navigation by; certain streams and waters not to be bridged; powers of supervisors over acquisition of lands for.....	Co. L.,	62	17
Destroyed bridge of, supervisors may purchase or condemn and rebuild.....	Co. L.,	64	17
supervisors may authorize town to purchase...	Co. L.,	69, 70	19
Extension of term of corporate existence.....	Gen. Corp. L.,	32	26
Toll bridges; toll gates on; rates of toll.....	Co. L.,	73	21
unsafe, commissioners of highways may compel repair of.....	High. L.,	13	6

Bridges.

When at county or town expense; joint expenses of: county control over town bridges; joint expenses of towns; over county and town boundaries.....	Co. L.,	60-70	19
County, construction, repair, abandonment of, by county.....	High. L.,	130-43	36
Town, construction, repair, abandonment of, by town.....	Co. L.,	61, 64	16
Defective, damages from, recovery of, from town..	High. L.,	4, 9-11	2
recovery of, by town from commissioner of highways.....	High. L.,	132-3	36
Breaking, when town not liable for damages from..	High. L.,	16-18	7
Fast driving over, penalty for.....	High. L.,	17	7
Injuries to, penalty for.....	High. L.,	154	41
Iron bridges, town need not pay for, unless approved by state engineer.....	High. L.,	143-4	39
Dog tax, may be appropriated for, by town.....	High. L.,	153	41
	High. L.,	145	40
	Co. L.,	114, 121	28

Broome county, exemption from general law as to compensation of supervisors.....

Co. L., 23 8

Buffalo, city of, exempt from general law as to dog tax.....

Co. L., 111 27

Building and mutual loan corporations. See BANKING LAW.

Are moneyed corporations.....	Gen. Corp. L.,	3	3
Incorporators, qualifications of.....	Gen. Corp. L.,	4	3
Powers of.....	Gen. Corp. L.,	10-11	7

Business of corporation defined..... Gen. Corp. L., 3 2

Business Corporation Law, The.

Relation of, to laws repealed by.....	Stat. Const. L.,	31-2	7
to laws passed at same session, or before taking effect.....	Stat. Const. L.,	33	7
Application to previous corporations.....	Gen. Corp. L.,	32-6	28
Provisions of General Corporation Law and Stock Corporation Law yield to conflicting provisions of other corporate laws.....	Gen. Corp. L.,	33	28

Business corporations. See, also, STOCK CORPORATIONS; BUSINESS CORPORATION LAW.

Are stock corporations.....	Gen. Corp. L.,	3	2
Qualifications of incorporators.....	Gen. Corp. L.,	4	3
Certificate of incorporation:			
corporate name in, must differ from name of existing corporation.....	Gen. Corp. L.,	6	4
principal business office named in, defined and located.....	Gen. Corp. L.,	8	2
two, at least, of directors named in, must reside in this state.....	Gen. Corp. L.,	39	21

[Reference to paging in index is to page of law specifically named therein.]

Business corporations — Continued.

Certificate of incorporation — Continued:

SECTIONS. PAGE.

may provide for cumulative voting at elections of directors	Gen. Corp. L.,	20	15
taxes and fees to be paid before filing	Gen. Corp. L.,	5	8
original to be filed in office of secretary of state; duplicate original, or certified copy, to be filed in county clerk's office.....	Gen. Corp. L.,	8, 5	2
lost or destroyed, may be replaced	Gen. Corp. L.,	8	6
amendment of, generally	Gen. Corp. L.,	7	5
term of corporate existence specified in, may be extended	Gen. Corp. L.,	32	26
is presumptive evidence of incorporation	Gen. Corp. L.,	9	6

C

Calendar.

Day and month defined.....	Stat. Const. L.,	27	6
----------------------------	------------------	----	---

Cemeteries.

Town, not to be sold or divided	Town L.,	8	2
Rural cemetery associations, power to take, hold and convey property	Gen. Corp. L.,	12	12

Cessions, to the United States	State L.,	20-37	34
--------------------------------------	-----------	-------	----

Challenges. See ELECTIONS.

Charitable, benevolent, literary, scientific, devotional and missionary corporations.

Power to take, hold and convey property	Gen. Corp. L., 11, 12,	10
---	------------------------	----

Chattels, defined.	Stat. Const. L.,	4	2
-------------------------	------------------	---	---

Christmas day, a holiday	Stat. Const. L.,	24	5
--------------------------------	------------------	----	---

City; cities.

Indebtedness of wards to be transmitted to comptroller	Co. L.,	52	15
Joint bridges, liability for	Co. L.,	68	19
Deemed towns for certain purposes	Town L.,	184	30
Liable for damages by mobs	Gen. Mun. L.,	21	9
Having interest in money received by county officers, reports to be made	Co. L.,	233	49
Powers as to tolls not abridged	Co. L.,	73	21
Of more than 100,000 inhabitants, power to contract debts limited	Gen. Mun. L.,	2	2

Civil Code, defined.	Stat. Const. L.,	29	6
---------------------------	------------------	----	---

Clerk, board of supervisors. See COUNTIES.

Collateral inheritance tax. See TAXES AND TAXATION.

Collector (town).

Undertaking	Town L.,	52	16
Filing and lien of undertaking	Town L.,	53	16
Term of office	Town L.,	231	45
Election of	Town L.,	12	5
To pay dog taxes to supervisor	Co. L.,	114	28
Fees on collection, dog tax	Co. L.,	115	28
To kill dog if tax unpaid	Co. L.,	113	28

Colony of New York, laws of, not in force	Stat. Const. L.,	30	6
---	------------------	----	---

[Reference to paging in index is to page of law specifically named therein.]

Columbia county.

Exempt from general law as to compensation of supervisors.....

	Co. L.,	23	8

Commissioners of highways. See HIGHWAYS.**Commissioners of deeds.**

Appointed by governor.....	Exec. L.,	87	15
In cities.....	Exec. L.,	86	15
Powers of.....	Exec. L.,	88	16
Fees.....	Exec. L.,	89	17

Commons, owned by towns.....	Town L.,	24	6
-------------------------------------	-----------------	-----------	----------

Comptroller.

May visit county jails and workhouses	Co. L.,	103	27
Salary and expenses	Exec. L.,	90	5
Deputy	Exec. L.,	81	5
Fees.....	Exec. L.,	82	5
To report on matters referred by legislature.....	Exec. L.,	70	10
To render quarterly accounts of fees	Exec. L.,	71	10
To audit certain accounts of sheriffs.....	Co. L.,	185	41
County treasurer to render account to.....	Co. L.,	140	31
Undertakings of state officers.....	Pub. Off. L.,	11	4
Vacancy, how filled.....	Pub. Off. L.,	30	11
Resignation.....	Pub. Off. L.,	21	7
Removal.....	Pub. Off. L.,	22	8
Is a member of the state board of canvassers.....	Elect. L.,	187	52
May grant excise licenses to common carriers.....	Excise L.,	90	15
Reports to, by attorney-general, as to costs, etc.	Exec. L.,	53	8

Computation.

Of time, to be by Gregorian, or new style.....	Stat. Const. L.,	25	5
Of months, how made.....	Stat. Const. L.,	26	6
Of days.....	Stat. Const. L.,	27	6

Constables.

To hold until successors qualified	Town L.,	13	5
When may confine prisoner in town lock-up.....	Town L.,	192	42
Undertakings.....	Town L.,	54	16
Appeal from audits of fees.....	Town L.,	163	35
Fees of, when town charge, when county.....	Town L.,	165	36
Names of, to be returned by town clerk.....	Town L.,	83	21
Terms of office	Town L.,	231	47
Special.....	Town L.,	43	14
Election of.....	Town L.,	13	5
Term of office	Town L.,	13	5
Number determined by electors.....	Town L.,	24	6
Certain services by, county charge	Co. L.,	230	50

Constitutional amendments.

Notice, submission of	Elect. L.,	6	5
Proposed, to be published.....	Elect. L.,	7	6

Convention. See ELECTIONS.

Of state, resolutions of, not in force.....	Stat. Const. L.	30	6
---	-----------------	----	---

Conversion, of floating timber, treble damages for..	Town L.,	186	30
---	-----------------	------------	-----------

Coroner.

When to act as sheriff	Co. L.,	187	41
Other coroners, when designated to act.....	Co. L.,	188	41
Duties of, as to wrecked property.....	Town L.,	188	30
Publication of notice of wrecked property.....	Town L.,	149	33
Election and term of office	Co. L.,	180	39
Vacancy filled by governor.....	Co. L.,	180	39

[Reference to paging in index is to page of law specifically named therein.]

Corporate laws.

	SECTIONS.	PAGE.
Defined.....	Gen. Corp. L.,	3 2
Application of, to previous corporations.....	Gen. Corp. L.,	33-6 28
Relation of, to laws repealed by	Stat. Const. L.,	31-2 7
to laws passed at same session, or before taking effect	Stat. Const. L.,	33 7
Provisions of General Corporation Law and Stock Corporation Law yield to conflicting provisions of other corporate laws.....	Gen. Corp. L.,	33 28

Corporations. See, also, STOCK CORPORATIONS; BUSINESS CORPORATIONS; RAILROAD CORPORATIONS, ETC.

Defined and classified.....	Gen. Corp. L.,	2-3 2
Member of, defined	Gen. Corp. L.,	3 2
Office of, defined and regulated.....	Gen. Corp. L.,	3 2
Directors of, defined.....	Gen. Corp. L.,	3 2
qualifications and powers of	Gen. Corp. L.,	29 21
business of, defined.....	Gen. Corp. L.,	3 2
when must be commenced	Gen. Corp. L.,	31 25
banking prohibited.....	Gen. Corp. L.,	19 15
Certificate of incorporation of, defined.....	Gen. Corp. L.,	3 2
where to be filed	Gen. Corp. L.,	5 3
amended and supplemental.....	Gen. Corp. L.,	7 5
lost or destroyed.....	Gen. Corp. L.,	8 6
Elections of, regulated.....	Gen. Corp. L.,	20-6 15
review of, by supreme court	Gen. Corp. L.,	27 19
Extension of term of corporate existence.....	Gen. Corp. L.,	32 26
Incorporators, qualifications of.....	Gen. Corp. L.,	4 3
Are persons	Stat. Const. L.,	5 3
Powers of.....	Gen. Corp. L.,	10-14 7
Seal of, what is and how affixed... ..	Stat. Const. L.,	13 3
private seal of officer, when deemed corporate seal.....	Stat. Const. L.,	13 3

Corporations, Foreign.

Not to do business in this state without certificate of authority	Gen. Corp. L.,	15-16 13
Right of, to acquire and hold real property in this state.....	Gen. Corp. L.,	17-18 14
To designate person in this state to serve process on.	Gen. Corp. L.,	16 13

Costs.

Of motion on report of commissioners to lay out highways.. ..	High. L.,	152 41
On assessment of damages for laying out highways.	High. L.,	92 28

Counties.

Supervisors, boards of, meeting and organization...	Co. L.,	10 3
to elect chairman.....	Co. L.,	10 3
to choose temporary chairman	Co. L.,	10 3
to appoint clerk	Co. L.,	10 3
penalty for neglect of duties.....	Co. L.,	11 3
general powers of.....	Co. L.,	12 3
limitation on power to issue obligations.....	Co. L.,	13 5
resolutions authorizing issue of obligations...	Co. L.,	14 5
legalization of informal acts of town meeting or village election	Co. L.,	15 5
correction of assessments.....	Co. L.,	16 6
refunding illegal taxes.....	Co. L.,	16 6
how to exercise powers.....	Co. L.,	17 6
printed proceedings	Co. L.,	18 6
designation of newspapers to publish session laws.....	Co. L.,	19 7

[Reference to paging in index is to page of law specifically named therein.]

Counties — Continued.

SECTION. PAGE.

Supervisors, board of, publication of laws and resolutions.....	Co. L.,	20	7
expenses of publication.....	Co. L.,	21	8
election notices.....	Co. L.,	22	8
official canvass.....	Co. L.,	22	8
compensation.....	Co. L.,	23	8
accounts against county.....	Co. L.,	24	9
may make additional regulations.....	Co. L.,	25	9
charge and control of records.	Co. L.,	26	9
may examine witnesses.....	Co. L.,	27	10
committees.....	Co. L.,	28	10
adjournments.....	Co. L.,	29	10
undertakings by person arrested.....	Co. L.,	30	10
power to fix or change site of county buildings.	Co. L.,	31	11
alteration and erection of towns.....	Co. L.,	34	12
establishment of disputed town lines.....	Co. L.,	36	12
powers of, as to fire districts outside of incorporated villages.....	Co. L.,	37	13
soldiers' monuments.....	Co. L.,	38	14
clerk of, to be appointed.....	Co. L.,	10	8
duties of clerk.....	Co. L.,	50	14
to make annual statement.....	Co. L.,	51	15
to report indebtedness.....	Co. L.,	52	15
to make statement respecting corporations.	Co. L.,	53	15
penalty.....	Co. L.,	54	16
exercise of powers as to county highways and bridges.....	Co. L.,	61	16
aid to towns for bridges.....	Co. L.,	63	17
construction of destroyed bridges.....	Co. L.,	64	17
apportionment of expenses between towns and counties.....	Co. L.,	65	18
to collect and pay county's share.....	Co. L.,	66	18
may authorize town to construct bridge outside of town boundary.....	Co. L.,	67	18
to provide for bridges over county lines.....	Co. L.,	68	19
may authorize town to borrow money.....	Co. L.,	69	19
powers as to streets outside city limits.....	Co. L.,	71	20
survey and record of highways.....	Co. L.,	72	21
regulation of tolls.....	Co. L.,	73	21
may establish highway districts in counties of more than 800,000 inhabitants.....	Co. L.,	74	22
application of certain non-resident highway taxes.....	Co. L.,	75	22
expenditure of certain non-resident taxes.....	Co. L.,	76	22
alteration of state roads.....	Co. L.,	77	23
further powers.....	Co. L.,	78	23

County.

A municipal corporation.....	Co. L.,	2	2
Actions and special proceedings by and against.....	Co. L.,	3	2
Contracts to be in name of.....	Co. L.,	3	2
Division or alteration of boundary, property and debts.....	Co. L.,	4	3
Law does not apply to New York county.....	Co. L.,	1	1
Records.....	Co. L.,	26	9
Buildings.....	Co. L.,	31	11
Liable for damages by mobs.....	Gen. Mun. L.,	21	8

County charges.

What are.....	Co. L.,	280	50
How raised.....	Co. L.,	283	52
To be audited by board of supervisors.....	Co. L.,	12	3

[Reference to paging in index is to page of law specifically named therein.]

County charges — Continued.

SECTIONS. PAGE.

Salaries of certain officers to be.....	Co. L.,	12	8
Expenses incurred for highways and bridges.....	Co. L.,	61	16
Certain bridges, construction of, to be.....	Co. L.,	64	17
Publication of session laws.....	Co. L.,	21	8
Publication of election notices and official canvass..	Co. L.,	22	8
Counsel to assist district attorney.	Co. L.,	204	44

County clerk.

Election, term, undertaking.....	Co. L.,	160	36
General powers and duties.....	Co. L.,	161	36
Deputy.....	Co. L.,	162	37
Statement to board of supervisors.....	Co. L.,	164	38
Business hours.....	Co. L.,	165	38
Collector's undertaking to be filed with.....	Town L.,	52	16
Secretary of county board of canvassers.....	Elect. L.,	130	47
Certain oaths administered by, and filed with.....	Pub. Off. L.,	10	4
Certificates of nominations for office filed with.....	Elect. L.,	58	22
To publish lists of candidates.	Elect. L.,	61	24
To send lists to town clerks and aldermen.....	Elect. L.,	63	25
To provide ballots and instruction cards.....	Elect. L.,	86	30
To distribute registry books.	Elect. L.,	40	18
To distribute election laws.....	Elect. L.,	19	13
When term includes register.....	Stat. Const. L.,	21	5
Fees of, for recording official bonds.....	Co. L.,	237	53

County highways and bridges. (See HIGHWAYS)

Co. L.,	61	16
---------	----	----

County houses of detention.....

Co. L.,	101	26
---------	-----	----

County indebtedness. See COUNTIES; SUPERVISORS, BOARDS OF.**County jails.**

Use of.....	Co. L.,	90	23
Must contain certain rooms.....	Co. L.,	91	24
Prisoners, how kept.....	Co. L.,	92	24
Food and labor of prisoners.....	Co. L.,	93	24
Reading matter for prisoners.....	Co. L.,	94	25
Record of commitments to.....	Co. L.,	95	25
Commitments to, by United States courts.....	Co. L.,	96	25
Calendars to be presented to courts.....	Co. L.,	97	25
Prisoners to be discharged if not indicted.....	Co. L.,	98	26
if unable to pay fine.....	Co. L.,	100	26
Suspension of <i>habeas corpus</i> duringoyer and terminator.....	Co. L.,	99	26
Who may visit.....	Co. L.,	103	27

County judge.

Election, term.....	Co. L.,	220	47
Compensation of.....	Co. L.,	222	48
Salary, when and how paid.....	Co. L.,	223	49
Special.....	Co. L.,	220	47

County law. See separate index following law, ante.**County officers. See PUBLIC OFFICERS.**

Annual reports.....	Co. L.,	233	52
Suits against, for moneys received.....	Co. L.,	234	52
Official seals of.....	Co. L.,	235	53
When chosen.....	Co. L.,	236	53
Bonds and undertakings.....	Co. L.,	237	53
Special provisions as to certain officers in Ulster Co.	Co. L.,	231	52
Resignations of.....	Pub. Off. L.,	21	7

County seal ..

Co. L.,	235	53
---------	-----	----

[Reference to paging in index is to page of law specifically named therein.]

		SECTIONS.	PAGE.
County treasurer.			
Election, term of office, undertaking.....	Co. L.,	140	31
General powers and duties	Co. L.,	141	32
Extension of time to make report.....	Co. L.,	143	33
To designate banks of deposit	Co. L.,	143	34
Delivery of books and funds to successor.....	Co. L.,	147	35
Penalty for neglect to report.....	Co. L.,	148	35
May extend time to collect taxes.....	Co. L.,	149	35
Excise money paid to, where poor a county charge.	Town L.,	181	41
Cannot be supervisor	Town L.,	50	15
To prosecute district attorney in certain cases . . .	Co. L.,	201	43
Duties of, as to municipal taxes of railroads.....	Gen. Mun. L.,	12	5
See TAXES AND TAXATION.			
County workhouses	Co. L.,	102	26
Court of appeals.			
Judges of, may visit county jails and workhouses..	Co. L.,	108	27
Seals of, furnished and repaired by sec'y of state..	Pub. Off. L.,	40	12
Courts.			
To be regulated by standard time.....	Stat. Const. L.,	28	6
Seals of, how affixed.....	Stat. Const. L.,	13	3
Of record, criers of, compensation; a county charge.	Co. L.,	230	50
clerks' offices of, days and hours of closing....	Co. L.,	165	38
Criminal actions and proceedings.			
Fees of magistrates and peace officers in.....	{ Town L., 164-5	36	
	{ Co. L., 230, sub. 6	50	
Criminal Code, means Code of Criminal Procedure.	Stat. Const. L.,	29	6

D

Damages.			
Treble, for conversion of drifting logs, etc.....	Town L.,	186	20
For trespass on town lands.....	Town L.,	183	41
In highway matters. See HIGHWAYS.			
Day, day-time, defined	Stat. Const. L.,	27	6
Days, computation of number of	Stat. Const. L.,	27	6
Decoration day, a public holiday	Stat. Const. L.,	24	5
District attorneys.			
Election, term, undertaking.....	Co. L.,	200	43
Annual report.....	Co. L.,	201	43
Assistants.....	Co. L.,	202	43
in Erie county.....	Co. L.,	203	44
Employment of counsel by	Co. L.,	204	44
To sue county officers for moneys received.....	Co. L.,	234	52
Salary of, to be fixed by supervisors.....	Co. L.,	12, sub. 5	3
District of Columbia, included under term state ..	Stat. Const. L.,	23	5
Division fences. See FENCES.			
Dogs.			
Tax on.....	Co. L.,	110-23	27
Liability of owners for injuries.....	Co. L.,	117	29
Chasing sheep to be killed.....	Co. L.,	123-4	30
When justice may order killed	Co. L.,	125	30
Who deemed owner of.....	Co. L.,	126	30
Draw-bridges over navigable streams. See BRIDGES.			
Drivers, liability of owner of vehicle driven, for acts of	High. L.,	161	43

[Reference to paging in index is to page of law specifically named therein.]

E

SECTIONS. PAGE.

		60	16
East river, exempt from county law as to bridges...	Co. L.,		
Elections.			
General, when held.....	Elect. L.,	2	4
Time of opening and closing polls.....	Elect. L.,	3	4
Filling vacancies in elective offices.....	Elect. L.,	4	4
Notices by secretary of state.....	Elect. L.,	5	5
Of proposed constitutional amendment.....	Elect. L.,	6	5
Publication of resolutions.....	Elect. L.,	7	6
Districts.....	Elect. L.,	8	6
Maps, etc., of boundaries.....	Elect. L.,	9	7
Polling places.....	Elect. L.,	10	8
Inspectors in cities.....	Elect. L.,	11	8
Poll and ballot clerks.....	Elect. L.,	12	9
Ballot-boxes.....	Elect. L.,	13	9
Voting booths and guard-rails.....	Elect. L.,	14	10
Board of inspectors, vacancies, absences.....	Elect. L.,	15	10
Preservation of order by inspectors.....	Elect. L.,	16	11
Payment of election expenses.....	Elect. L.,	17	11
Districts in certain towns.....	Elect. L.,	18	13
Transmission of laws.....	Elect. L.,	19	
Disqualification of voters.....	Elect. L.,	30	13
Registry, meeting of inspectors.....	Elect. L.,	31	14
register of voters.....	Elect. L.,	32	14
challenges.....	Elect. L.,	35	17
addition and cancellation of names.....	Elect. L.,	37	17
Primaries and conventions, defined.....	Elect. L.,	50	19
notice of primary.....	Elect. L.,	51	19
organization and conduct.....	Elect. L.,	52	20
qualification of voters.....	Elect. L.,	53	21
duties of chairman.....	Elect. L.,	54	21
watchers and canvass.....	Elect. L.,	55	21
Nominations, party.....	Elect. L.,	56	21
independent.....	Elect. L.,	57	21
filing certificates, place of.....	Elect. L.,	58	23
filing certificates, time of.....	Elect. L.,	59	23
certification by secretary of state.....	Elect. L.,	60	23
publication of.....	Elect. L.,	61	24
posting town and village.....	Elect. L.,	62	25
lists for town clerk and aldermen.....	Elect. L.,	63	25
declination of.....	Elect. L.,	64	25
objections to.....	Elect. L.,	65	25
filling vacancies in.....	Elect. L.,	66	26
Ballots, official, to be provided.....	Elect. L.,	80	27
form of.....	Elect. L.,	81	27
contents of.....	Elect. L.,	82	28
form of, for constitutional amendments, etc.....	Elect. L.,	83	29
sample ballot and instruction card.....	Elect. L.,	84	29
number of, for each poll.....	Elect. L.,	85	30
who to provide.....	Elect. L.,	86	30
distribution.....	Elect. L.,	87	31
correction of errors.....	Elect. L.,	88	31
distribution of substitutes.....	Elect. L.,	89	32
Conduct of, opening polls.....	Elect. L.,	100	33
regulations inside guard-rail.....	Elect. L.,	101	34
watchers; challengers; electioneering.....	Elect. L.,	102	34
delivery of ballots to voters.....	Elect. L.,	103	35
preparation of ballots.....	Elect. L.,	104	35
manner of voting.....	Elect. L.,	105	37
duties of ballot clerks.....	Elect. L.,	106	38

[Reference to paging in index is to page of law specifically named therein.]

Elections — Continued.

SECTIONS. PAGE.

Conduct of, duties of poll clerks	Elect. L.,	107	39
duties of inspectors	Elect. L.,	108	40
official ballots.	Elect. L.,	109	41
challenges	Elect. L.,	110	41
allowance of time for employes.	Elect. L.,	113	43
canvass of votes	Elect. L.,	114	43
statement of canvass	Elect. L.,	115	44
proclamation of result	Elect. L.,	116	45
inspectors to make returns	Elect. L.,	117	45
investigation of marked ballots	Elect. L.,	118	46
Canvassers, county, organization of	Elect. L.,	190	47
production of statements	Elect. L.,	131	48
correction of clerical errors	Elect. L.,	132	48
<i>mandamus</i> will lie to correct errors of	Elect. L.,	133	49
statement of canvass	Elect. L.,	134	49
decisions	Elect. L.,	135	50
transmission of statements to secretary of state.	Elect. L.,	136	51
state, organization of	Elect. L.,	137	52
canvass by	Elect. L.,	138	52
certificates of election	Elect. L.,	139	53
record of county officers elected	Elect. L.,	140	53
Representatives in congress	Elect. L.,	160	54
Presidential electors	Elect. L.,	161	54
meeting of electoral college	Elect. L.,	162	54
duty of secretary of state	Elect. L.,	163	55
compensation	Elect. L.,	167	55
Days of general holidays	Stat. Const. L.,	24	5
Compensation of inspectors and clerks	Town L.,	178	40
Notices of publication in newspapers	Co. L.,	23	8
Justices of sessions	Co. L.,	290	47
Superintendents of poor, when more than one	Co. L.,	210	44
Inspectors of	Town L.,	12	5
term of office of	Town L.,	13	5
additional, how appointed	Town L.,	19	7
must be able to read and write	Town L.,	50	15

Election law. See separate index following law, *ante*.**Electors, presidential.** See ELECTIONS.**Electric light corporations.**

Assessment and taxes of	Co. L.,	53	15
-------------------------------	---------	----	----

England, laws of, not in force	Stat. Const. L.,	30	6
---	------------------	----	---

Erie county.

As to compensation of supervisors	Co. L.,	23	8
As to publication, elections, notices, official canvass ..	Co. L.,	22	8
Assistant district attorneys	Co. L.,	203	44
Costs collected by district attorney	Co. L.,	203	44
Interpreter for grand jury in	Co. L.,	208	44

Evidence.

Recitals in proceedings of meeting	Stat. Const. L.,	19	4
Division fences, sufficiency of, presumed	Town L.,	107	25
Fence viewers, appraisement, <i>prima facie</i>	Town L.,	108	25
Certificate of clerk of town meeting of election of justice	Town L.,	57	17
Certificate by fence viewers of damages to sheep ..	Co. L.,	119	20
Payment of dog tax must be proved in action for killing dog	Co. L.,	116	20

Excise.

Commissioners of, election of	Town L.,	13	5
Ballots, when more than one to be elected	Town L.,	20	7

[Reference to paging in index is to page of law specifically named therein.]

Excise — Continued.

	SECTIONS.	PAGE.
Separate ballots for....	{ Town L.,	38 13
	{ Elect. L.,	81 27
Division into classes	Town L.,	16 5
Certain officers ineligible.	Town L.,	16 5
Undertaking of.....	Town L.,	61 18
Moneys, how disposed of.....	Town L.,	181 41
Boards of, how constituted.....	L. 1892, ch. 401,	2 2
Eligibility to office of commissioner of excise.....	L. 1892, ch. 401,	3 2
Election of commissioner of, in towns.....	L. 1892, ch. 401,	4 2
Appointment of commissioners of, in cities.....	L. 1892, ch. 401,	5 3
Removal of commissioners of.	L. 1892, ch. 401,	5 3
Oath and bond of commissioners of	L. 1892, ch. 401,	7 4
Compensation of commissioners of	L. 1892, ch. 401,	8 8
Incidental expenses of boards of.....	L. 1892, ch. 401,	9 5
Appointment by boards of, in cities	L. 1892, ch. 401,	10 5
Employment of attorney by board of, of a town....	L. 1892, ch. 401,	11 5
Attorney for board of, for city.....	L. 1892, ch. 401,	10 5
Records of board of.....	L. 1892, ch. 401,	12 5
Compulsory attendance of witness before boards of.	L. 1892, ch. 401,	13 6
Prosecution of civil actions by boards of.....	L. 1892, ch. 401,	14 6
Payment over of moneys received by commissioners of	L. 1892, ch. 401,	15 7
Annual reports of boards of.....	L. 1892, ch. 401,	16 7
Meetings of boards of.....	L. 1892, ch. 401,	17 7
Prohibition upon the granting of licenses by boards of	L. 1892, ch. 401,	18 7
Classification of licenses and license fees	L. 1892, ch. 401,	19 8
Papers to be filed by applicants for license.....	L. 1892, ch. 401,	20 10
Bonds for applicants.....	L. 1892, ch. 401,	20 10
When a license may be granted by board.....	L. 1892, ch. 401,	21 11
Forms of licenses.....	L. 1892, ch. 401,	22 11
Licenses to be posted.....	L. 1892, ch. 401,	23 12
<i>Certiorari</i> upon refusal to grant license	L. 1892, ch. 401,	24 12
Transfer of license upon death of licensee.....	L. 1892, ch. 401,	25 13
Transfer of license by permission of board.....	L. 1892, ch. 401,	26 13
Revocation of license by force of criminal conviction.	L. 1892, ch. 401,	27 14
Grounds of revocation of license by board of.....	L. 1892, ch. 401,	28 14
Determination of board of excise, how reviewed ..	L. 1892, ch. 401,	29 15
Licenses by comptroller to common carriers.....	L. 1892, ch. 401,	30 15
Illegal sales without license.....	L. 1892, ch. 401,	31 16
Illegal sales without license, a misdemeanor.....	L. 1892, ch. 401,	31 16
Illegal sales with or without a license.....	L. 1892, ch. 401,	32 16
Illegal sales in violation of a license	L. 1892, ch. 401,	33 17
Liquors in public institutions.....	L. 1892, ch. 401,	34 17
Intoxication in a public place.....	L. 1892, ch. 401,	35 18
Violations of excise laws generally.....	L. 1892, ch. 401,	36 18
Convictions of persons holding licenses to be reported to board of	L. 1892, ch. 401,	37 18
Rights of officers on licensed premises.....	L. 1892, ch. 401,	38 18
Intemperate persons not to be employed by common carriers	L. 1892, ch. 401,	39 18
Civil actions for credit sales and for damages from intoxication.....	L. 1892, ch. 401,	40 18
Local option.....	L. 1892, ch. 401,	41 19
Complaint before boards of.....	L. 1892, ch. 401,	42 19
Restriction as to licenses near churches and schools.	L. 1892, ch. 401,	43 20

Excise law. See separate index following law, *ante*.**Executive law.** See separate index following law, *ante*.

[Reference to paging in index is to page of law specifically named therein.]

F

	SECTIONS. PAGE.	
Fastings and prayer, general day of, holiday.....	Stat. Const. L.,	24 5
Felonies. See ELECTIONS.		
Fences.		
On commons, etc., owned by town.....	Town L.,	24 c
Annual town meetings to make rules.....	Town L.,	24 c
Where highway or road laid out.....	High. L.,	123 36
Abatement of highway tax for removal of.....	High. L.,	73 28
Owner or occupant, when to remove.....	High. L.,	101 31
How owner may have lands inclosed.....	Town L.,	101 31
Division.	Town L.,	100 31
Fence viewers.		
Where fence line in a stream of water.....	Town L.,	100 23
Powers of.....	Town L.,	104 24
In villages and cities.	Town L.,	134 30
To appraise damages to sheep.	Co. L.,	118 29
Certificate presumptive evidence.....	Co. L.,	119 29
In towns, who are.....	Town L.,	23 6
Fees of.....	Town L.,	125 28
Sale of beasts impounded.....	Town L.,	127 28
Determination of damages, etc.	Town L.,	124 27
To appraise damages for omitting to build fence...	Town L.,	108 25
Ferries.		
When schedules to be posted.....	High. L.,	174 44
Licenses for.	High. L.,	170 43
Undertaking.....	High. L.,	171 44
Rope, appendages for.....	High. L.,	172 44
Powers of superintendent of public works in certain cases.....	High. L.,	178 44
Fire companies.		
In towns.....	Town L.,	171 37
Districts outside of cities and villages.....	Co. L.,	37 13
Foreclosure of lien on strays.....	Town L.,	126 28
Foreign corporations. See CORPORATION.		
Forms for each law follow directly after such law		
Funds. See COMPTROLLER.		

G

Game and fish, powers of supervisors in reference to.	Co. L.,	13 3
General Corporation Law, The.....	Gen. Corp. L.,	3 2
Application of, to previous corporations.....	Gen. Corp. L.,	33-6 28
Relation of, to laws repealed by.....	Stat. Const. L.,	31-2 7
Relation of, to other laws passed at same session, or before taking effect of.	Stat. Const. L.,	33 7
Provisions of, yield to inconsistent or conflicting provisions of other corporate laws.....	Gen. Corp. L.,	33 28
See separate index following law, <i>ante</i> .		
General Municipal Law, The.		
Took effect October 1, 1892.....	Gen. Mun. L.,	29 11
Application of, to previous corporations.....	Stat. Const. L.,	31-2 7
Laws repealed by.....	Gen. Mun. L.,	28 11
Limitation upon effect of repeal, saving clause.....	Stat. Const. L.,	31-2 7

[Reference to paging in index is to page of law specifically named therein.]

General Municipal Law, The — *Continued.*

	SECTIONS. PAGE.	
Relation of, to previous laws repealed by.....	Stat. Const. L.,	32 7
Relation of, to other laws passed at same session, or before taking effect of.....	Stat. Const. L.,	33 7
See separate index following law, <i>ante</i> .		
Gospel and school lots, not to be sold, when.....	Town L.,	3 2
Governing board, defined.....	Gen. Mun. L.,	1 1
Governor.		
To appoint certain state officers.....	Pub. Off. L.,	6 2
Appointment by, and senate.....	Pub. Off. L.,	7 2
To appoint wreck-masters.....	Town L.,	150 34
May visit jails and workhouses.....	Co. L.,	103 27
To fill vacancy in office of county clerk.....	Co. L.,	160 36
Power of, as to vacancies in office of certain county officers.....	Co. L.,	220 47
When to appoint district attorney.....	Co. L.,	200 43
May remove sheriff for non-payment of money.....	Co. L.,	186 41
When, may appoint sheriff or coroner.....	Co. L.,	180 39
Office of, and residence.....	Exec. L.,	1 1
Acting.....	Exec. L.,	2 1
Private secretary of.....	Exec. L.,	3 1
Annual expenditures of.....	Exec. L.,	4 2
Records, to keep.....	Exec. L.,	5 2
May sign certain petitions.....	Exec. L.,	6 2
When to make proclamation of special election ...	Elect. L.,	4 4
Seal, how made.....	Pub. Off. L.,	40 12
To be notified of certain vacancies in office.....	Pub. Off. L.,	26 10
To give notice of certain vacancies in office.....	Pub. Off. L.,	26 10
Resignation of.....	Pub. Off. L.,	21 7
Resignations made to.....	Pub. Off. L.,	21 7
Proceedings on recommendation for removal.....	Pub. Off. L.,	22 8
Removals by.....	Pub. Off. L.,	23 9
Proceedings for removal by.....	Pub. Off. L.,	24 9
To employ counsel and provide for defense of state sovereignty and jurisdiction in certain cases.....	State L.,	11 34
Guide posts, commissioners of highways may erect.	High. L.,	5 3

H

Habeas corpus, not to issue for prisoner in county jail when oyer and terminer in session.....	Co. L.,	99 26
Half-holiday, defined.....	Stat. Const. L.,	24 5
Head-notes of sections of statutes in schedules, changed by change in sections.....	Stat. Const. L.,	34 8
Highways.		
Abandoned, when deemed to be.....	High. L.,	99 31
Actions for injuries to.....	High. L.,	15 7
against towns for defective.....	High. L.,	16 7
by town against commissioners.....	High. L.,	17 7
Audit of damages by town board.....	High. L.,	18 7
Assessment of labor, how made.....	High. L.,	33 11
exemptions.....	High. L., 33, sub.	2 11
commutation for, by corporations.....	High. L., 33, sub.	3 11
property in village not to be assessed by town.	High. L., 33, sub.	3 11
omissions by assessors.....	High. L., 33, sub.	3 11
appeal from, by non-resident.....	High. L.,	41 14
	High. L.,	36 13

[Reference to paging in index is to page of law specifically named therein.]

Highways — Continued.

SECTIONS. PAGE.

Assessment of labor, certain assessments to be separate	High. L.,	38	13
deduction for, by tenant.	High. L.,	39	13
reassessment on delinquents.	High. L.,	40	14
abatement of tax for shade trees.	High. L.,	44	15
for watering trough.	High. L.,	48	16
for removal of fence.	High. L.,	72	23
for street lamps.	High. L.,	73	23
systems of, defined.	High. L.,	49	16
change of system.	High. L.,	50	16
Assessment, vote on change of system.	High. L.,	51	16
when change takes effect.	High. L.,	52	17
annual tax under money system	High. L.,	53	17
for unperformed labor.	High. L.,	66	20
collection of arrearages.	High. L.,	68	21
annual return.	High. L.,	69	21
to notify occupants to remove weeds.	High. L.,	71	22
Bicycles and tricycles upon.	High. L.,	163	43
Bridges, when town or county expense	High. L.,	130	36
statement of expenses to be made by commissioners.	High. L.,	132	36
tax to be levied by supervisors.	High. L.,	133	37
between towns.	High. L.,	134	37
unsafe toll.	High. L.,	13	6
when town not liable for breaking.	High. L.,	154	41
Carriages meeting, to turn to right.	High. L.,	157	42
Commissioners of, general powers.	High. L.,	4	2
vacancy filled at town meeting.	Town L.,	12	5
powers of, when but one.	High. L.,	3	2
may erect mile-stones and guide-boards.	High. L.,	5	3
may purchase road machines and implements.	High. L.,	6	4
may purchase stone-crushers and materials when authorized by town meeting.	High. L.,	7	4
to have custody of stone-crushers.	High. L.,	8	4
agreements with village trustees for use of same.	High. L.,	8	4
election, term of office	Town L.,	17	7
extraordinary repairs by.	High. L.,	10	5
powers as to highway or bridge damaged or destroyed by elements.	High. L.,	10	5
how expenses of extraordinary repairs audited.	High. L.,	11	5
how expenses for stone-crushers and materials audited	High. L.,	7	3
accounts of, how made out.	High. L.,	12	5
powers of, as to unsafe toll-bridge	High. L.,	13	6
powers of, as to water-pipes in highways.	High. L.,	14	6
actions by, for injuries to highways.	High. L.,	15	7
actions against, by town.	High. L.,	18	7
reports of.	High. L.,	19	8
meetings of.	High. L.,	30	11
to hold over until successor chosen or qualified.	Town L.,	12	5
to assess highway labor.	High. L.,	33	11
assessment of non-resident lands.	High. L.,	33	11
suits against owners for penalties.	High. L.,	33	9
neglect for one year to open or work highway.	High. L.,	33, sub. 5	11
to deliver copies of assessments to overseers.	High. L.,	34	13
may give credit for work on private roads.	High. L.,	37	13
may authorize trees planted.	High. L.,	43	14
may authorize sidewalks constructed.	High. L.,	43	14
anticipation of tax for sidewalks.	High. L.,	45	15
may lay out highway by dedication.	High. L.,	80	24
disagreements between, in different towns.	High. L.,	94	28

[Reference to paging in index is to page of law specifically named therein.]

Highways — Continued.

SECTIONS. PAGE.

Commissioners of, must carry out determination of			
commissioners appointed to lay out, etc.....	High. L.,	98	31
duty as to abandoned highways.....	High. L.,	99	31
to widen highways by user.....	High. L.,	100	31
to remove fences.....	High. L.,	101	31
to remove obstructions and encroachments.....	High. L.,	105	32
must file papers	High. L.,	150	40
may regulate, but not prohibit bicycles and tri-			
cycles	High. L.,	163	43
to make statement of expense incurred for			
bridges	High. L.,	182	36
repair of bridges between towns.....	High. L.,	185	37
to institute and prosecute proceedings.....	High. L.,	187	38
to pay over moneys to successor.....	Town L.,	63	19
of the adjoining towns to meet and fix on plan.	High. L.,	138	38
report	High. L.,	139	38
to order inhabitants to extinguish fires in woods.	Town L.,	82	21
compensation of.....	Town L.,	178	40
effect of failure to file oath or undertaking	Town L.,	51	15
	Town L.,	230	47
	Pub. Off. L.,	10	4
	Pub. Off. L.,	20	7
contents of undertaking	Town L.,	63	19
Commutation for highway labor.....	High. L.,	62	19
County may be laid out by board of supervisors....	Co. L.,	61	16
Districts to be laid out by commissioners.....	High. L.,	4	2
Drivers, intemperate, not to be engaged.....	High. L.,	158	42
intoxicated, to be discharged.....	High. L.,	159	43
owners liable for acts of certain.....	High. L.,	161	42
not to leave horses without being tied.....	High. L.,	160	42
Dog tax, when may be appropriated for	Co. L.,	114	28
Elements, damage by.....	High. L.,	10	5
Fences, when to be removed.....	High. L.,	101	31
Ferries to be licensed.....	High. L.,	170	43
undertaking of applicant.....	High. L.,	171	44
rope	High. L.,	172	44
powers of superintendent of public works in			
certain cases.....	High. L.,	173	44
schedules to be posted	High. L.,	174	44
Labor, arrearages for, how collected and paid.....	High. L.,	66	21
overseer to deliver list of unperformed.....	High. L.,	66	20
penalties for neglect to work or commute... ..	High. L.,	65	20
substitutes may be furnished by persons as-			
essed for.....	High. L.,	64	19
apportionment of, by commissioners.....	High. L.,	33	11
persons exempted from.....	High. L.,	33	11
assessments for, against corporations	High. L.,	33	11
names omitted to be added.....	High. L.,	35	13
certain assessments for, kept separate.....	High. L.,	38	13
certain tenants may deduct from rent.	High. L.,	39	13
reassessment on failure to work or commute... ..	High. L.,	40	14
sidewalks.....	High. L.,	45	15
change of system, when to take effect.....	High. L.,	52	17
notice to residents by overseer.....	High. L.,	60	18
notice to non-residents.....	High. L.,	61	19
commutation for.....	High. L.,	62	19
hours to constitute a day's work.....	High. L.,	64	19
Laying out, altering and discontinuing:			
dedication.....	High. L.,	80	24
survey to be made, filed and recorded.....	High. L.,	81	24

[Reference to paging in index is to page of law specifically named therein.]

Highways — Continued.

		SECTIONS. PAGE.	
Laying out, application for	High. L.,	82	25
application for appointment of commissioners..	High. L.,	83	25
appointment and duties of commissioners to			
alter, etc., highway	High. L.,	84	25
notice of meeting of commissioners	High. L.,	85	25
decision of commissioners	{ High. L.,	86	26
	{ High. L.,	88	26
owner may inclose discontinued highway in cer-			
tain cases	High. L.,	87	26
proceedings on commissioners' decision	High. L.,	89	26
limitations	High. L.,	90	27
through burying grounds	High. L.,	91	27
costs, by whom paid	High. L.,	92	28
when allowed	High. L.,	152	41
damages and costs audited by board of super-			
visors	High. L.,	93	28
disagreement between officers of different towns.	{ High. L.,	94	28
	{ High. L.,	95	29
highway in more than one town	High. L.,	96	30
highway upon town line	High. L.,	97	30
proceedings as to private road	High. L.,	106	32
papers to be filed	High. L.,	150	40
vacancies among commissioners, how filed ..	High. L.,	151	41
Liability of town for defects	High. L.,	16	7
Mile-stones and guide-boards	High. L.,	5	3
Non-resident lands, list to be made	High. L.,	82	11
appeal by owner of	High. L.,	86	13
Non residents, notice to work	High. L.,	61	19
Notice to inhabitants	High. L.,	60	18
Obstructed, opening, by overseer	High. L.,	21	8
Omissions of assessors, how corrected	High. L.,	41	14
Omitted names to be added to lists	High. L.,	85	13
Overseers of, general duties	High. L.,	20	8
refusal to serve, forfeits ten dollars	Town L.,	55	17
duty of, when highways obstructed by snow or			
otherwise	High. L.,	21	8
penalties against	High. L.,	22	9
penalties, how collected	High. L.,	23	9
compensation of	High. L.,	24	10
to deliver list of inhabitants to town clerk	High. L.,	31	11
may add names omitted from assessment-lists..	High. L.,	35	13
new assessment by, where assessment insuffi-			
cient	High. L.,	42	14
certificate by, where sidewalk tax anticipated..	High. L.,	46	16
to give notice to work	High. L.,	60	18
notice to be given non-residents	High. L.,	61	19
may require persons assessed to furnish teams,			
etc	High. L.,	63	19
suit by, for penalties	High. L.,	65	20
may excuse omission to perform labor	High. L.,	65	20
to notify occupants to remove weeds	High. L.,	71	22
Penalties against overseers	High. L.,	22	9
for neglect to work or commute	High. L.,	65	20
for refusal of overseer to provide list	High. L.,	67	21
for falling trees	High. L.,	103	32
for obstruction or encroachments	High. L.,	104	32
and notice on bridge	High. L.,	143	39
how recovered	High. L.,	164	43
Repairs, extraordinary	High. L.,	10	5
Road-machines and implements	High. L.,	6	4
Sidewalks	High. L.,	43	14
Steam traction engines on	High. L.,	155	41

[Reference to paging in index is to page of law specifically named therein.]

Highways — Continued.

		SECTIONS.	PAGE.
Stone-crushers and materials...	High. L.,	7	4
Supervisors, general powers over...	Co. L.,	78	23
may authorize alteration or discontinuance of state road.....	Co. L.,	77	23
powers in counties having over 300,000 acres unimproved land.....	Co. L.,	74	23
authorizing surveys, records and monuments..	Co. L.,	72	21
authorizing towns to issue bonds.....	Co. L.,	69, 70	20
Trees on, belong to whom	High. L.,	156	41
Use, when road becomes.....	High. L.,	100	31
Water pipes in.....	High. L.,	14	6
Watering trough, abatement of tax for.....	High. L.,	48	16
Weeds along, to be cut.....	High. L.,	70	22
Width of.....	High. L.,	90	27

See separate index following law, *ante*.**Holidays and Half-holidays.**

Enumerated	Stat. Const. L.,	24	5
In public offices	Pub. Off. L.,	41	12
Not deemed such for registry of voters.....	Elect. L.,	41	19
Sheriff's office closed.	Co. L.,	184	40

Horses.

Strayed, doing damage. See ANIMALS.

Penalty for leaving untied, in certain cases.....	High L.,	160	42
---	----------	-----	----

Hudson river, below Waterford exempt from certain provisions as to bridges.....

Co. L.,	60	16
---------	----	----

Hydrants, permission for, by highway commissioners.

High L.,	14	6
----------	----	---

I

Idiocy, not included in term lunacy.....	Stat. Const. L.,	7	2
Imprisonment in county jails, who subject to.....	Co. L.,	90	23
	Co. L.,	92	24
Injuries to passengers, liability of owners of car- riages for	High L.,	161	42
Inspector of election, per diem compensation of. See ELECTIONS.	Town L.,	178	40

Intemperance. See EXCISE.**Intemperate drivers.**

To be discharged.....	High. L.,	159	42
Penalty for employment of.....	High. L.,	158	42

Interpreter for grand juries in Erie county, may be appointed.....

Co. L.,	203	44
---------	-----	----

Intoxication and intoxicating liquors. See EXCISE; LIQUORS.**J****Jails. See COUNTIES; PRISONS.**

Joint-stock association, included in term person.	Stat. Const. L.,	5	2
---	------------------	---	---

Judge.

Defined	Stat. Const. L.,	6	2
Election of. See ELECTIONS.			
See COURTS.			

Judge of county courts. See COUNTY JUDGE.

[Reference to paging in index is to page of law specifically named therein.]

		SECTIONS.	PAGE
Judgment.			
Against town or officer, when town charge.....	Town L.,	180	40
Against county, when county charge.....	Co. L.,	230	50
Jury districts, supervisors may make.	Co. L.,	12	3
Justices of peace.			
With supervisor may appoint special constables....	Town L.,	43	14
Powers at town meetings.....	Town L.,	27	9
Election of.....	Town L.,	12	5
Term of.....	Town L.,	14	5
Vacancy, how filled.....	Town L.,	12	5
Ballots for, when more than one.....	Town L.,	20	7
In new towns.....	Town L.,	21	7
When more than four.....	Town L.,	22	7
Not to be commissioner of excise.....	Town L.,	16	5
When may order dog killed.....	Co. L.,	125	26
Undertakings.....	Town L.,	58	17
Certificate of election of.....	Town L.,	57	17
Certain official acts legalized.....	Town L.,	59	17
When may commit to lock-up.....	Town L.,	192	42
Per diem compensation of.....	Town L.,	178	40
Fees of, when town charge, when county.....	Town L.,	165	36
When no fees allowed....	Town L.,	165	36
Appeal from audit from account.....	Town L.,	163	35
Member of town boards.....	Town L.,	160	34
Accounts in criminal matters.....	Town L.,	164	36
Duty as to fires in woods.....	Town L.,	89	21
Powers as to resignation of town officers.....	Town L.,	64	19
Vacancies.....	Town L.,	65	19
Services rendered in certain cases county charge....	Co. L.,	230	50
Justices of sessions, how chosen; term.....	Co. L.,	220	47

K**Kings county.**

Excepted from general law as to undertaking of district attorney.....	Co. L.,	200	48
as to payment of salaries of county judge and surrogate.....	Co. L.,	223	49
as to creation of surrogate.....	Co. L.,	221	47
as to election of overseers of poor.....	Town L.,	12	5
as to publication, election notices and official canvass.....	Co. L.,	23	5
as to change of location of county buildings....	Co. L.,	31	11
as to houses of detention.....	Co. L.,	101	26
as to dog tax.....	Co. L.,	111	27
Towns of Flatbush and New Lots in; as to certain streets.....	Co. L.,	71	20
Wreck-masters to be appointed in.....	Town L.	150	34

L**Laws.**

Evidence when bills become.....	Leg. L.,	41	8
Deposit with secretary of state.....	Leg. L.,	42	8
Time of taking effect.....	Leg. L.,	43	9
Statement of session laws as to passage.....	Leg. L.,	44	9
Contents of published volumes of.....	Leg. L.,	45	9
Who entitled to receive.....	Leg. L.,	46	9
Slips to be forwarded to newspapers.....	Leg. L.,	48	10
to certain clerks.....	Leg. L.,	49	11

[Reference to paging in index is to page of law specifically named therein.]

Laws — Continued.		SECTIONS. PAGE.	
Proposal for printing session.....	Leg. L.,	71	14
Exchange by governor with other states.....	Exec. L.		7
Repealing, effect of, limited	Stat. Const. L.,	81	7
Existing, included in revision, not new enactments..	Stat. Const. L.,	82	7
Effect of revision on those passed at same session..	Stat. Const. L.,	83	7
alteration of titles and head-notes.....	Stat. Const. L.,	34	8
Laws repealed.			
By Statutory Construction Law.....			8
By State Law.....			78
By Election Law.....			168
By Public Officers Law.....			13
By Legislative Law.....			20
By Executive Law.....			17
By General Municipal Law.....			11
By County Law.....			54
By General Corporation Law.....			29
By Highway Law..			45
By Town Law.....			49
Law libraries. See LIBRARIES.			
Leap year, defined	Stat. Const. L.,	25	5
Legislative Law. See separate index following law, ante.			
Legislative Manual	Exec. L.,	25	8
Legislature.			
Members of, may visit jails and workhouses.....	Co. L.,	108	27
Exemption of members and officers from arrest....	Leg. L.,	2	2
Expulsion of members	Leg. L.,	3	2
Contempts	Leg. L.,	4	2
Payment of salaries of members.....	Leg. L.,	5	2
Officers and employees of senate.....	Leg. L.,	6	2
of the assembly.....	Leg. L.,	7	3
Appointments to be entered on journals.....	Leg. L.,	8	4
Stenographers to special committees.....	Leg. L.,	9	4
Compensation of officers and employees.....	Leg. L.,	10	4
during extra sessions and impeachment trials..	Leg. L.,	11	5
Officers to attend at next session.....	Leg. L.,	12	5
to remain after adjournment.....	Leg. L.,	13	6
Undertaking of clerk.....	Leg. L.,	14	6
Duties of clerk.....	Leg. L.,	15	6
Supplies furnished by clerk.....	Leg. L.,	16	6
Accountability of clerk.....	Leg. L.,	17	6
Postmasters and assistants, duties of.....	Leg. L.,	18	6
Stenographers, duties of.....	Leg. L.,	19	7
Detail of officers and employees for special duties...	Leg. L.,	20	7
Limitation of expenses.....	Leg. L.,	21	7
Custody of papers and documents... ..	Leg. L.,	22	7
Certificate of presiding officer.....	Leg. L.,	40	8
Testimony before committees.....	Leg. L.,	60	11
When sub-committees may be appointed.....	Leg. L.,	61	12
Witnesses' fees.....	Leg. L.,	62	12
Expenses of committees.....	Leg. L.,	63	12
Testimony concerning contested elections.....	Leg. L.,	64	12
Expenses of unsuccessful contestants.....	Leg. L.,	65	13
Legislature.			
Senate districts	L. 1892, ch. 397 E. L.		106
Assembly districts.....	L. 1892, ch. 397 E. L.		100
Legislative printing.			
Defined.....	Leg. L.,	70	13
Proposals for printing session laws.....	Leg. L.,	71	14

[Reference to paging in index is to page of law specifically named therein.]

Legislative printing — Continued.

SECTIONS. PAGE.

For the legislative printing.....	Leg. L.,	72	15
Journals.....	Leg. L.,	73	17
Bills.....	Leg. L.,	74	17
Messages and reports.....	Leg. L.,	75	17
extra copies.....	Leg. L.,	76	18
Documents, extra copies.....	Leg. L.,	77	19
Binding.....	Leg. L.,	79	20
Lieutenant-governor.			
Resignation of.....	Pub. Off. L.,	21	7
May visit jails and workhouses.....	Co. L.,	108	27
Local officer, term includes what	Pub. Off. L.,	2	1
Lock-up, in towns.....	Town L.,	192	42
Logs, drifting upon lands.....	Town L.,	136	30
Lumber, floating, conversion of.....	Town L.,	136	30

M

Memorial day, a public holiday.....	Stat. Const. L.,	24	5
Men, term as used in statute includes boys.....	Stat. Const. L.,	8	2
Mile-stones, erection of, by commissioners of highways.....	High. L.,	5	3
Ministers of gospel, authorized to visit county jails	Co. L.,	108	27
Moneyed corporations, defined	Gen. Corp. L.,	3	2
Month, defined, how computed.....	Stat. Const. L.	26	6
Monuments.			
Of state boundary, restoration of	State L.,	9	33
Along highways, in care of overseers of highways.	High. L.,	20	8
Acquisition of lands by, for erection of	Gen. Mun. L.,	25	10
Discriminations against non-residents of, prohibited.	Gen. Mun. L.,	27	11
Municipal corporations. See COUNTIES; TOWNS.			
Defined, includes town and county.....	Gen. Corp. L.,	3	2
	Gen. Mun. L.,	1	1
	Co. L.,	2	2
	Town L.,	2	1
Bonds of, generally.....	Gen. Mun. L.,	6-11	3
in aid of railroads.....	Gen. Mun. L.,	12-19	5
Railroad commissioners of	Gen. Mun. L.,	12-19	5
Funded debt of.....	Gen. Mun. L.,	5	3
Temporary loans by.....	Gen. Mun. L.,	4	3
Limitation of indebtedness of.....	Gen. Mun. L.,	2	2
Investigation of expenditures of towns and villages.	Gen. Mun. L.,	3	2
Insurance of its property by	Gen. Mun. L.,	23	10
Judgments against, payment of.....	Gen. Mun. L.,	20	9
Governing board of, term defined	Gen. Mun. L.,	1	1
Leases of buildings by, to G. A. R. posts	Gen. Mun. L.,	26	11
Liability for damages by mobs and riots.....	Gen. Mun. L.,	21	9
Libraries of, free public.....	Gen. Mun. L.,	24	10

Municipal Law, The General.

Relation of, to laws repealed by.....	Stat. Const. L.,	31-2	7
to laws passed at same session or before taking effect	Stat. Const. L.,	33	7
Took effect October 1, 1892	Gen. Mun. L.,	29	11
Laws repealed by.....	Gen. Mun. L.,	28	11

[Reference to paging in index is to page of law specifically named therein.]

N

		SECTIONS.	PAGE.
National bank, is a foreign corporation	Gen. Corp. L.,	8	2
New York, county of, County Law not applicable to	Co. L.,	1	1
New York, colony of, laws, etc., of, not now in force	Stat. Const. L.,	30	6
Non-residents.			
Highway assessment of. See HIGHWAYS.			
Of municipal corporation, discriminations prohibited	Gen. Mun. L.,	27	11
Notaries public.			
Appointment; qualification; duties.....	Exec. L.,	81-5	12
Commissions of, how signed.....	Pub. Off. L.,	8	3
Oath of office to be administered by county clerk...	Pub. Off. L.,	10	4
Now, as used in statute, defined	Stat. Const. L.,	9	2
Nuisances, town meeting may direct abatement of..	Town L., 24, sub. 7		6
Number, singular for plural and <i>vice versa</i>, in statute	Stat. Const. L.,	8	2

O

Oath.			
Neglect of officer to file.....	Pub. Off. L.,	13	6
Of office, whom to administer.....	Pub. Off. L.,	10	4
Of town officer.....	Town L.,	51	15
When town officer may administer.....	Town L.,	56	17
Defined.....	Stat. Const. L.,	14	3
See titles of various proceedings; OFFICERS, ETC.			
Officers. See titles of different officers.			
Who may take acknowledgment.....	Stat. Const. L.,	15	3
Single, may be board.....	Stat. Const. L.,	18	4
Public. See PUBLIC OFFICERS.			
Oneida county, exempt from general laws as to compensation of supervisors	Co. L.,	23	8
Onondaga county, exempt from general laws as to compensation of supervisors	Co. L.,	23	8

P

Passengers, liability of owners of carriage for injury to	High. L.,	161	42
Penitentiaries, supervisors' contracts for use of...	Co. L.,	12	3
Personal property, defined	Stat. Const. L.,	4	2
Plank-roads.			
Supervisors may regulate tolls.....	Co. L.,	73	21
Towns may purchase and issue bonds.....	Co. L.,	69	19
Poll clerks, compensation of	Town L.,	178	40
See ELECTIONS.			
Poor.			
Overseers of, surplus on sale of strays to be paid to deliver books and papers to successor.....	Town L.,	133	29
undertaking of.....	Town L.,	84	21
when town may pay charges against.....	Town L.,	62	18
	Town L.,	24	6

[Reference to paging in index is to page of law specifically named therein.]

Poor — Continued.

SECTIONS. PAGE.

Overseers of, when may call a special town meeting.	Town L.,	25	9
election of	Town L.,	12	5
ballots, when more than one.....	Town L.,	20	7
number and terms of office.....	Town L.,	18	8
superintendent, form of account against.....	Co. L.,	24	9
salary to be fixed by supervisors	Co. L.,	12	3
cannot be supervisor.....	Town L.,	50	15

Pound-masters.

Fees of.....	Town L.,	179	40
Duty and fees of.....	Town L.,	182	29
Refusal to serve.....	Town L.,	55	17
To have care of pounds.....	Town L.,	36	11
Election of, in towns.....	Town L.,	37	12
Number of, determined by town meeting.....	Town L.,	24	6

Pounds.

Pound meeting may regulate.....	Town L.,	24	6
May erect or discontinue.....	Town L.,	36	11
Strays may be impounded in.....	Town L.,	122	27

Preceding, defined.....	Stat. Const. L.,	10	3
-------------------------	------------------	----	---

Primary. See ELECTIONS.**Printing, public.** See LEGISLATIVE PRINTING**Prisoners.** See COUNTY JAILS.**Private roads.** See HIGHWAYS.**Property.** See REAL PROPERTY; PERSONAL PROPERTY.

Defined ..	Stat. Const. L.,	2	2
------------	------------------	---	---

Public buildings. See separate index at end of Public Buildings Law.**Public officers.**

Defined ..	Pub. Off. L.,	2	1
Qualifications.....	Pub. Off. L.,	3	2
Commencement of term.....	Pub. Off. L.,	4	2
Holding over.....	Pub. Off. L.,	5	2
Mode of choosing state, if not otherwise provided..	Pub. Off. L.,	6	2
Appointment by governor and senate.....	Pub. Off. L.,	7	2
Commissions of.....	Pub. Off. L.,	8	3
Deputies.....	Pub. Off. L.,	9	3
Oaths of.....	Pub. Off. L.,	10	4
Undertakings of.....	Pub. Off. L.,	11	4
Neglect to file oath or undertaking	Pub. Off. L.,	13	6
Effect of revision on term.....	Pub. Off. L.,	14	6
Vacancies, how created	Pub. Off. L.,	20	7
Resignations of	Pub. Off. L.,	21	7
Removals by senate.....	Pub. Off. L.,	22	8
by governor.....	Pub. Off. L.,	23	9
Removal, how made.....	Pub. Off. L.,	25	9
Notice of existence of vacancy.....	Pub. Off. L.,	26	10
Vacancy, term of officer chosen to fill.....	Pub. Off. L.,	27	10
in office of appointee of governor and senate...	Pub. Off. L.,	28	11
of legislative appointee during recess.....	Pub. Off. L.,	29	11
filled by legislature.....	Pub. Off. L.,	30	11
others, how filled.....	Pub. Off. L.,	31	11
Seals	Pub. Off. L.,	40	12
Business on public houses.....	Pub. Off. L.,	41	12
Payment of expenses of.....	Pub. Off. L.,	42	12

[Reference to paging in index is to page of law specifically named therein.]

Public Officers Law. See separate index following law, *ante*.

SECTIONS. PAGE.

Public printing. See LEGISLATIVE PRINTING, ETC.

Public property. See PUBLIC BUILDINGS.

Q

Qualification of electors. See CONSTITUTION.

Queens county, wreck-masters in, appointment of. Town L., 150 34

Quorum, at meeting of public officers.... Stat. Const. L., 19 4

R

Railroad Law, The.

Is a corporate law..... Gen. Corp. L., 8 2

Provisions of, to prevail over general corporation or stock corporation laws..... Gen. Corp. L., 33 28

Construction of, in connection with previous railroad laws..... Gen. Corp. L., 36 29

Railroad commissioners of municipal corporations..... Gen. Mun. L., 13-18 6

Railroad corporations, assessment of statement of, by supervisors' clerk to county treasurer..... Co. L., 53 15

Real property.

Defined..... Stat. Const. L., 3 2

Lien on, of collector's undertaking..... Town. L., 53 16

Corporation may take by devise..... Gen. Corp. L., 11 10

Register of county, term in statute, includes county clerk..... Stat. Const. L., 21 5

Register; registration of voters. See ELECTIONS.

Removals from office.

By governor..... Pub. Off. L., 24 9

By senate, on recommendation of governor..... Pub. Off. L., 22 8

Rensselaer county excepted from county law as to supervisors' compensation..... Co. L., 23 8

Repeal of repealed law does not revive law first repealed..... Stat. Const. L., 31 7

Representatives in congress. See ELECTIONS.

Resignation of public officers..... Pub. Off. L., 21 7

Revision of laws, effect of, upon laws passed at same session..... Stat. Const. L., 33 7

Richmond county.

Wreck-masters to be appointed in..... Town L., 150 34

Election of overseers of poor in..... Town L., 12 5

Compensation of supervisors in..... Co. L., 23 6

Road machines, purchase of..... High. L., 6 4

[Reference to paging in index is to page of law specifically named therein.]

S

		SECTIONS.	PAGE.
Salvage, on recovery of wrecked property.....	Town L.,	137	30
School commissioner.			
Cannot be supervisor	Town L.,	50	15
Formation of new district.....	Co. L.,	12	3
School district trustees, cannot be supervisor....	Town L.,	50	15
Scrapers, highway commissioners may purchase.....	High. L.,	6	4
Seal.			
Defined.....	Stat. Const. L.,	13	3
Of public officers.....	Pub. Off. L.,	40	13
Of county officers and boards.....	Co. L.,	235	53
Great, of state, description of	State L.,	43	78
use of	State L.,	44	78
Secretary of state.			
To attest commissions.....	Pub. Off. L.,	8	3
To file oaths of state officers.....	Pub. Off. L.,	10	4
Resignation of.....	Pub. Off. L.,	21	7
To file resignations of officers.....	Pub. Off. L.,	21	7
Removal by senate.....	Pub. Off. L.,	22	5
To provide official seals.....	Pub. Off. L.,	40	12
Vacancy, how filled.....	Pub. Off. L.,	30	11
Salary and expenses of.....	Exec. L.,	20	3
Deputy.....	Exec. L.,	21	3
To have custody of records.....	Exec. L.,	23	3
To distribute acts of congress	Exec. L.,	23	3
To supply statutes to new counties and towns.....	Exec. L.,	24	3
To prepare legislative manual... ..	Exec. L.,	25	3
Fees of.....	Exec. L.,	26	4
File quarterly account.....	Exec. L.,	71	10
When to make special report to legislature.....	Exec. L.,	70	10
Laws and resolutions deposited with.....	Leg. L.,	42	8
Statement to be inserted in session laws.....	Leg. L.,	44	9
To index session laws.....	Leg. L.,	45	9
To distribute session laws.....	Leg. L.,	46	9
To distribute journals and documents.....	Leg. L.,	47	10
To forward slips of session laws to newspapers....	Leg. L.,	48	10
To forward slips of session laws to certain clerks...	Leg. L.,	49	11
To be notified of designation of newspapers to publish session laws.	Co. L.,	19	7
Papers to be filed with, on alteration and erection of towns. . .	Co. L.,	34	13
Papers to be filed with, on establishment of disputed town lines	Co. L.,	36	12
to publish same with session laws.....	Co. L.,	36	12
To receive certain reports from county clerks.....	Co. L.,	161	36
May visit jails and workhouses.....	Co. L.,	103	27
Description of official seals filed with.....	Co. L.,	235	53
Resolution for creation of office of surrogate filed with.....	Co. L.,	221	47
	See ELECTIONS.		
Secretary, private, of governor	Exec. L.,	3	1
Senate.			
Confirmation or rejection of nominations.....	Pub. Off. L.,	7	2
Removals of officers by.....	Pub. Off. L.,	22	8
	See LEGISLATURE.		
Senators, resignation of.	Pub. Off. L.,	21	7

[Reference to paging in index is to page of law specifically named therein.]

	SECTIONS. PAGE.	
Service.		
On body or board, how made.....	Stat. Const. L.,	20 4
Of papers on sheriff.....	Co. L.,	184 40
Sessions, justices of. See JUSTICES OF SESSIONS.		
Sheep. See ANIMALS; DOGS.		
Sheriffs.		
Election and term of.....	Co. L.,	180 39
Undertakings of.....	Co. L.,	180 39
Under-sheriffs.....	Co. L.,	181 40
Deputies ..	Co. L.,	182 40
To have custody of jails.....	Co. L.,	183 40
Offices of.....	Co. L.,	184 40
Fees of, for services for state.....	Co. L.,	185 41
Removal for non-payment of moneys.....	Co. L.,	186 41
When coroner to act.....	Co. L.,	187 41
When county judge to appoint.....	Co. L.,	189 42
To have custody of prisoners.....	Co. L.,	92 24
May prescribe regulations for visitors to jails and workhouses.....	Co. L.,	108 27
Has charge of houses of detention.....	Co. L.,	101 26
Compensation of, when county charge.....	Co. L.,	230 50
Duties of, as to wrecked property.....	Town L.,	138 30
to publish notice of.....	Town L.,	149 33
Signature, defined.....	Stat. Const. L.,	12 3
Snow. See HIGHWAYS.		
Speaker of assembly. See LEGISLATURE.		
Special county judge.....	Co. L.	220 47
Special elections. See ELECTIONS.		
Special sessions. See COURTS.		
Special surrogates.....	Co. L.,	220 47
Spirituuous liquors. See ADULTERATIONS; EXCISE.		
State.		
When included under term "person".	Stat. Const. L.,	5 2
Term includes what.....	Stat. Const. L.,	23 5
State board. See titles of particular subjects.		
State constitutions. See CONSTITUTION.		
State engineer and surveyor.		
Resignation of.....	Pub. Off. L.,	21 7
Removal of.....	Pub. Off. L.,	22 8
Vacancy, how filled.....	Pub. Off. L.,	30 11
Salary and expenses of.....	Exec. L.,	60 9
Deputy ..	Exec. L.,	61 9
Duties of.....	Exec. L.,	62 9
Documents to be public.....	Exec. L.,	63 9
Use of official seal.....	Exec. L.,	64 9
Fees of ..	Exec. L.,	65 10
When to make special reports to legislature.....	Exec. L.,	70 10
To file quarterly account.....	Exec. L.,	71 10
May require supervisor to cause survey made.....	Town L.,	81 20
State Law. See separate index following law, <i>ante</i> .		
Took effect October 1, 1892.....	State L.,	46 78
Relation of, to laws repealed by.....	Stat. Const. L.,	81-2 7
Laws repealed by.....	State L.,	45 78

[Reference to paging in index is to page of law specifically named therein.]

		SECTIONS.	PAGE
State library, to receive proceedings of supervisors.	Co. L.,	50	14
State officer. See PUBLIC OFFICERS.			
Includes what.....	Pub. Off. L.,	2	1
State printing. See LEGISLATIVE PRINTING.			
State roads, supervisors may authorize alteration of.	Co. L.,	77	23
State superintendent of weights and measures.	Exec. L.,	80	12
State treasurer.			
Removal.....	Pub. Off. L.,	22	8
Vacancy, how filled.....	Pub. Off. L.,	30	11
Salary and expenses of.....	Exec. L.,	40	6
Undertaking.....	Exec. L.,	41	6
Deputy.....	Exec. L.,	42	6
To receive payments and reports from county treasurers.....	Co. L.,	141	32
Designations of banks of deposit filed with.....	Co. L.,	143	34
To pay sheriff for certain services.....	Co. L.,	185	41
Statutes. See LAWS.			
Statutory Construction Law, The.			
Took effect May 18, 1892.....	Stat. Const. L.,	36	9
Laws repealed by.....	Stat. Const. L.,	35	9
Relation of, to laws repealed by.....	Stat. Const. L.,	31-2	7
See separate index following law, <i>ants.</i>			
Stock Corporation Law, The.			
Is one of the corporate laws.....	Gen. Corp. L.,	3	2
Application of, to previous laws.....	Gen. Corp. L.,	33-6	26
Relation of, to laws repealed by.....	Stat. Const. L.,	31-3	7
Relation of, to other laws passed at same session or before taking effect of.....	Stat. Const. L.,	33	7
Provisions of, yield to inconsistent or conflicting provisions of other corporate laws.....	Gen. Corp. L.,	33	26
Stock corporations.			
Defined.....	Gen. Corp. L.,	3	2
Qualifications of incorporators.....	Gen. Corp. L.,	4	1
Certificate of incorporation.			
original to be filed in office secretary of state...	Gen. Corp. L.,	5	1
duplicate, original or certified copy to be filed in county clerk's office.....	Gen. Corp. L.,	5	3
certified copy deemed an original.....	Gen. Corp. L.,	3	2
taxes and fees to be paid before filing.....	Gen. Corp. L.,	5	3
corporate name specified in, must differ from name of existing corporation.....	Gen. Corp. L.,	6	4
two at least of directors named in, must reside in this state.....	Gen. Corp. L.,	29	21
may provide for cumulative voting at elections of directors.....	Gen. Corp. L.,	20	15
lost or destroyed may be replaced.....	Gen. Corp. L.,	8	6
amendment of, generally.....	Gen. Corp. L.,	7	5
term of corporate existence named in, may be extended.....	Gen. Corp. L.,	33	26
is presumptive evidence of incorporation.....	Gen. Corp. L.,	9	6
Must commence business in two years or charter forfeited.....	Gen. Corp. L.,	31	26
Corporate powers.			
None, except expressly granted or necessarily implied.....	Gen. Corp. L.,	10	7

[Reference to paging in index is to page of law specifically named therein.]

Stock corporations — Continued.

SECTIONS. PAGE.

Corporate powers.

general grant of powers. Gen. Corp. L., 11, 13-4 10

banking powers prohibited, except as authorized. Gen. Corp. L., 19 15

By-laws of.

may be made by stockholders to control directors. { Gen. Corp. L., 11 10

directors may make if stockholders do not. { Gen. Corp. L., 29 21

regulating election of directors to be published. Gen. Corp. L., 11 10

may regulate manner of transferring capital stock. Gen. Corp. L., 11 10

may fix quorum of stockholders' meetings. Gen. Corp. L., 11 10

may fix quorum of directors' meetings. Gen. Corp. L., 29 21

Stockholders of.

are members of corporation. Gen. Corp. L., 8 2

may make by-laws to control directors. { Gen. Corp. L., 11 10

quorum at meetings of, to be fixed by by-laws. { Gen. Corp. L., 29 21

special meetings for election of directors, when and how held. Gen. Corp. L., 11 10

qualifications of, as voters at meetings of and elections by; proxies; challenges; pledged stock; qualifications and oaths of inspectors; cumulative voting. { Gen. Corp. L., 24-6 18

consent of, owning two-thirds of stock, to extending term of corporate existence. { Gen. Corp. L., 20-2 15

Gen. Corp. L., 20 15

Directors of.

defined. Gen. Corp. L., 82 26

qualifications of; term of office; vacancies, how filled. Gen. Corp. L., 8 2

hold over until successors chosen. Gen. Corp. L., 29 21

as trustees, in case of dissolution. Gen. Corp. L., 23 17

actions brought in collusion with, may be stayed. Gen. Corp. L., 30 23

quorum at meetings of, how fixed. Gen. Corp. L., 28 19

to manage corporate affairs subject to by-laws of stockholders. { Gen. Corp. L., 29 21

Gen. Corp. L., 29 21

may amend certificate of incorporation. { Gen. Corp. L., 11 10

Gen. Corp. L., 7 5

actions against corporation by collusion with, may be stayed. Gen. Corp. L., 28 19

to be trustees upon dissolution of corporation. Gen. Corp. L., 28 19

Elections of, may be summarily reviewed by supreme court. Gen. Corp. L., 30 22

Gen. Corp. L., 27 19

Stone-crushers. See HIGHWAYS.**Strays.** See ANIMALS.**Streams.** See HIGHWAYS.**Streets.** See HIGHWAYS.**Suffolk county, wreck-masters to be appointed in..** Town L., 150 34**Suffrage.** See ELECTIONS.**Sunday.**

Defined. Stat. Const. L., 27 6

Holiday falling on. Stat. Const. L., 24 5

County offices not to be open on. Co. L., 12 3

Clerks' offices not to be open. Co. L., 165 38

Sheriffs' offices not to be open. Co. L., 184 40

Superintendent of public works, may lease

right of passage to ferries. High. L., 173 44

[Reference to paging in index is to page of law specifically named therein.]

Supervisor. See COUNTIES; SUPERVISORS, BOARD OF.

SECTIONS. PAGE.

Where town divided, may call meeting of board...	Town L.,	5	2
Annual town meeting, time fixed by.....	Town L.,	10	3
Election of.....	Town L.,	12	5
Term of.....	Town L.,	13	5
Not to be commissioner of excise.....	Town L.,	16	5
May have special town meeting called.....	Town L.,	25	9
With justices may appoint special constables.....	Town L.,	48	14
Eligibility for.....	Town L.,	50	15
Oath of office.....	Town L.,	51	15
To approve and receive collector's undertaking.....	Town L.,	52	16
To file same.....	Town L.,	53	16
May administer oaths in certain matters.....	Town L.,	56	17
Duties as to constable's undertaking.....	Town L.,	54	16
To approve justice's undertaking.....	Town L.,	58	17
Undertaking of.....	Town L.,	60	18
To approve undertaking of commissioner of excise..	Town L.,	61	18
To file same.....	Town L.,	61	18
as to undertaking of overseer of poor.....	Town L.,	62	18
as to undertaking of commissioner of highways.	Town L.,	63	19
Resignation of.....	Town L.,	64	19
Filling vacancy in office of.....	Town L.,	65	19
General duties of.....	Town L.,	80	20
Duty as to town surveys.....	Town L.,	81	20
Duty as to forest fires.....	Town L.,	82	21
Delivery of books and papers to successor.....	Town L.,	84	21
Member of town board.....	Town L.,	160	34
Duty as to certificate of audit.....	Town L.,	162	35
Accounts audited by, must be made out in items..	Town L.,	167	37
Compensation of.....	Town L.,	178	40
Must make report of town debt to board.....	Town L.,	210	43
form of same.....	Town L.,	211	43
duplicate to be presented to annual town meet- ing.....	Town L.,	213	44
Vacancies in counties having over 300,000 inhabitants	Town L.,	229	47
Official oath and undertaking in such counties.....	Town L.,	230	47

Supervisors, board of. See separate index follow-
ing County Law.**Surrogate; surrogate's court.**

Election and term of.....	Co. L.,	220	47
Creation and undertaking of.....	Co. L.,	231	47
Compensation of.....	Co. L.,	223	48
Special.....	Co. L.,	220	47

Swine. See ANIMALS.**T****Tax.**

On dogs. See DOGS.			
Illegally assessed may be refunded by supervisors, etc.....	Co. L.,	16	6
For highways and bridges. See HIGHWAYS.			

Taxes and taxation.

To defray town charges, levied by supervisors.....	Town L.,	180	40
county charges, levied by supervisors.....	Co. L.,	232	52
Generally, to be levied, etc., by supervisors.....	Co. L.,	12, sub. 4	3
In case of disputed town lines, readjusted by super- visors.....	Co. L.	16	6

Tax-rolls to be prepared by supervisors' clerk..... Co. L., 50, sub. 8 14

[Reference to paging in index is to page of law specifically named therein.]

	SECTIONS. PAGE.	
Telegraph and telephone corporations. See, also, STOCK CORPORATIONS.		
Taxes of, statement of, by supervisors' clerk and county treasurer.	Co. L.,	53 15
Tenancy. Tenants may deduct from rent, highway labor assessment.	High. L.,	39 13
Territory, U. S., included under term state, in a statute	Stat. Const. L.,	23 5
Thanksgiving day, a holiday.	Stat. Const. L.,	24 5
Timber. Floating, etc., treble damages for conversion of	Town. L.,	185-6 30
Time.		
Standard, that of 75th meridian.	Stat. Const. L.,	28 6
To be computed by Gregorian or new style.	Stat. Const. L.,	25 6
Toll-bridges, gates, roads. See HIGHWAYS.		
Town.		
Is a municipal corporation.	{ Town L.,	2 1
	{ Gen. Mun. L.,	1 1
	{ Gen. Corp. L.,	3 2
Actions by and against, contracts of, to be in town name	Town L.,	182 41
New, may be erected by board of supervisors.	Co. L.,	34 12
first election in.	Co. L.,	35 12
Boundaries of, may be changed by supervisors.	Co. L.,	34 12
disputed, may be adjusted by supervisors.	Co. L.,	36 12
new, to be filed and published in session laws.	Co. L.,	36 12
survey of, by state engineer on request of supervisor.	Town L.,	81 20
apportionment of town property, and debts by reason of change of.	{ Town L.,	3 2
	{ Town L.,	4 2
May borrow money when authorized by supervisors.	{ Co. L.,	12-14 3
	{ Co. L.,	69-70 19
Bonds of. See, also, GENERAL MUNICIPAL LAW.		
to be reported to board of supervisors	Town L.,	210-213 43
cancellation of, when paid	Town L.,	214 44
Expenditures of, investigation by court.	Gen. Mun. L.,	3 2
Indebtedness of, to be reported by supervisors' clerk to comptroller.	Co. L.,	52 15
Liability of, for defective highways and bridges	High. L.,	16 7
for bridge breaking.	High. L.,	154 41
Moneys of, in hands of county treasurer, to be paid to.	Co. L.,	234 52
Bridges and highways in. See BRIDGES; HIGHWAYS.		
Town auditors, when separate from town board.	Town L.,	172-6 38
Town board.		
General provisions regulating	Town L.,	160-76 34
May audit damages for defective highways and bridges.	High. L.,	18 7
Action on changes of town boundaries.	Town L.,	3-5 2
May consent to rebuilding of destroyed bridge.	High. L.,	10 5
To determine highway tax.	High. L.,	53 17
Highway accounts, audit of.	High. L.,	11-12 5
May appoint town fire companies.	Town L.,	171 37
To audit costs and expenses of action by highway commissioner.	High. L.,	23 9
To fill vacancies in town offices.	Town L.,	65 19
Town burial grounds.	Town L.,	195 42

[Reference to paging in index is to page of law specifically named therein.]

Town clerk.

SECTIONS. PAGE.

Election and term of office of.....	Town L.,	12-18	5
General duties of.....	Town L.,	88	21
Member of town board.....	Town L.,	160	34
Not to be excise commissioner	Town L.,	16	5
To be clerk of town meeting	{ Town L.,	26	10
Duties of, as clerk of town meeting.....	{ Town L.,	34	11
	{ Town L.,	38, 39	13
Office furniture and sign of.....	Town L.,	85, 86	22
See, also, TOWN OFFICERS; PUBLIC OFFICERS.			
Compensation.....	Town L.,	178	40

Town house, erection and control of..... Town L., 190, 191 41

Town law. See separate index following law, *ante*.

Town lock-ups..... Town L., 192 42

Town meetings.

Time and place of annual.....	Town L.,	10	3
Changing place of.....	Town L.,	11	4
What officers elected at.....	Town L.,	12	5
Determination of number of commissioners of high-ways	Town L.,	17	5
of overseers of poor.....	Town L.,	18	8
Additional inspectors to be appointed	Town L.,	19	7
Ballots for full term and vacancies.....	Town L.,	20	7
Powers of annual.....	Town L.,	24	6
Special.....	Town L.,	25	9
Notices of.....	Town L.,	26	9
Presiding officers of.....	Town L.,	27	9
Clerk of.....	Town L.,	28	10
Duration of.....	Town L.,	29	10
Challenges of voters at.....	Town L.,	30	10
Minutes of.....	Town L.,	31	10
Business not requiring ballot.....	Town L.,	32	10
Votes to expend over five hundred dollars.....	Town L.,	33	10
Notices of propositions to be determined by ballot..	Town L.,	34	11
Proclamation of opening and closing polls.....	Town L.,	35	11
Pounds.....	Town L.,	36	11
Pound-masters.....	Town L.,	37	12
Balloting.....	Town L.,	38	12
Canvass.....	Town L.,	39	12
Certificate of election of justices to be transmitted..	Town L.,	57	17
Minutes to be transcribed by clerk.....	Town L.,	83	21
Town auditors, election of	Town L.,	172	38
Statement of town board to be produced at.....	Town L.,	161	35
Vote as to town-house	Town L.,	191	42
lock-ups	Town L.,	192	42
May choose trustees of burial grounds.....	Town L.,	193	42
Moneys authorized by, a town charge.....	Town L.,	180	40
May abolish office of town auditor.....	Town L.,	177	39

Town officers. See, also, respective officers; PUBLIC OFFICERS.

Eligibility to offices of.....	{ Town L.,	50	15
Election, term of office.....	{ Pub. Off. L.,	3	2
Notice to, of election..	Town L.,	39	12
of appointment to fill vacancy.....	Town L.,	65	19
	{ Pub. Off. L.,	10-13	4
	{ Pub. Off. L.,	20	7
Official oaths and undertakings of	Town L.,	51	15
	{ Town L.,	66	19

[Reference to paging in index is to page of law specifically named therein.]

Town officers — Continued.

		SECTIONS.	PAGE.
Compensation of.....	{ Town L.,	166	36
	{ Town L.,	178	40
Hold over until successors chosen and qualified....	{ Town L.,	12	5
	{ Pub. Off. L.,	5	2
Accounts and reports of.....	{ Co. L.,	16	6
	{ Co. L.,	25	9
To account to town board	Town L.,	161	35
Contracts by, to be in town name.....	Town L.,	182	41
To deliver books, etc., to successor	Town L.,	84	21
Judgments against, when a town charge.....	Town L., 180, subs. 6-7	40	
Legalization by supervisors of informal acts of	Co. L.,	15	5
How affected by change of town boundaries.....	Co. L.,	35	12
Resignations of, to be to town clerk.....	{ Town L.,	64	19
	{ Pub. Off. L.,	21	7
Vacancies in office of, how filled	Town L.,	65	19

Treasurer, state. See STATE TREASURER.**Treasurer, county.** See COUNTY TREASURER.**Trees.**

Highway commissioners may permit, to be planted.	High. L.,	48	14
Abatement of tax for shade.	High. L.,	44	15
Penalty for felling into highway, river or stream..	High. L.,	102	32
Fallen, to be removed.....	High. L.,	103	32
On highways belong to whom.....	High. L.,	156	41

Turnpikes.

Towns may purchase	Co. L.,	96	25
Supervisors may regulate tolls.....	Co. L.,	73	21

U**Ulster county, salaries of certain officers in.....** Co. L., 231 52**Undertakings, term interchangeable with bonds....** Stat. Const. L., 16 4
See PUBLIC OFFICERS.**Under-sheriffs.** See SHERIFFS.**United States.**

Loan commissioner cannot be supervisor.....	Town L.,	50	15
Prisoner may be confined in county jails.....	Co. L.,	96	25
May acquire lands by condemnation.....	State L.,	36	76
Cessions to.....	State L.,	20	34

V**Vacancies.** See PUBLIC OFFICERS; ELECTIONS.**Villages.**

Expenditures investigated.....	Gen. Mun. L.,	8	2
Trustees may agree as to use of town-house.....	Town L.,	190	41
Deemed towns for certain purposes	Town L.,	184	30
Trustees not to be commissioners of excise	Town L.,	16	5
Informal acts of, legalized by supervisors	Co. L.,	15	5
Consent of trustees necessary for raising money in certain cases.....	Co. L.,	70	20
Defined	Stat. Const. L.,	22	5

[Reference to paging in index is to page of law specifically named therein.]

W

		SECTIONS. PAGE.	
Washington's headquarters at Newburgh...	Pub. B.,	20-25	5
Washington's birthday, a holiday	Stat. Const. L.,	24	5
Watering trough, abatement of tax for.....	High. L.,	48	16
Water pipes in highways, permission to lay.....	High. L.,	14	6
Weeds.			
Town meeting, powers as to	Town L.,	24	6
Supervisors, powers of, as to	Co. L.,	12	3
Bounties for destruction, a county charge.....	Co. L.,	230	58
Action by overseer of highways where occupant neglects to cut	High. L.,	71	22
In highways, noxious to be destroyed.....	High. L.,	70	22
Overseers of highways to cut.....	High. L.,	20	8
Westchester county.			
Exempt from general law as to dog tax.....	Co. L.,	111	27
Wreck-masters to be appointed in.....	Town L.,	150	34
Women prisoners.			
Kept separate from men.....	Co. L.,	92	24
And children, houses of detention for.....	Co. L.,	101	26
Wreck-masters, to be appointed in certain counties	Town L.,	150	34
Wrecked property.....	Town L.,	137	30
Writing, defined.....	Stat. Const. L.,	12	3
Written instruments, personal property.....	Stat. Const. L.,	4	1
See WRITING; RECORDS; RECORDS OF CONVEYANCES.			

Y

Year, how computed!.....	Stat. Const. L.,	25	5
---------------------------------	------------------	----	---

GENERAL INDEX TO FORMS.

County Law.	No. of Form.
abstract of accounts.....	27
to be attached	28
account against county.....	4
of fees of county clerk.....	55
affidavit for defaulting witness.....	7
of service of subpœna.....	8
application for alteration or erection of town.....	17
for appropriation of highway taxes.....	38
for county highway or bridge	32
to establish disputed lines.....	23
to fence viewers.....	41
apportionment of expense	36
authorization to construct bridge.....	37
calendar for court.	40
certificate of clerk of board.....	29
of fence viewers.....	42
copy of resolution to be forwarded to secretary of state.....	24
daily record of persons committed to jail.....	39
designation of bank by county treasurer.....	46
notice for alteration, etc., of town.....	18, 20
of application for highway or bridge.....	33
of commission or appointment.....	50
of corporations.....	54
of election or appointment.....	49
of neglect to file oath, etc.....	52
of petition to change public bridge.....	14
of qualifying officers.....	53
of vacancy.....	51
to secretary of state.....	3
petition for change of county bridge.....	11
to establish fire district.....	25
proof of posting notice.....	19
of publication of petition.....	12
of service.....	34
report of district attorney.....	59
resolutions	1, 2
resolution submitting proposition to vote.....	15
to lay out county highway.....	35
statement of aggregate valuation.....	30
of corporations.....	31
of county clerk.....	56
of county treasurer.....	44
to comptroller	45
subpœna by board of supervisors.....	5
by committee.....	6

County Law — Continued.

	No. of Form.
undertaking of county clerk.....	48
of county treasurer.....	43
of depository.....	47
of district attorney.....	58
of sheriff.....	57
of superintendent of poor.....	60
of surrogate.....	61
upon arrest of witness.....	10
warrant for witness.....	9

Election Code.

acceptance of nomination.....	9
ballot clerks' certificate.....	14
certificate of appointment of ballot clerks.....	11
of nomination.....	5
convention certificate.....	4
declination of nomination.....	10
diagram of room, p. 81.	
form of ballots, ps. 82-87.	
instruction card.....	18
list of nominations to be posted.....	8
to be published.....	7
mode of folding ballot, ps. 88, 89.	
nomination certificate.....	3
oath of inspectors.....	12
of poll and ballot clerks.....	13
to physical disability.....	17
party committee certificate.....	2
convention certificate.....	1
printed poster or list.....	6
receipt for official ballots.....	15, 16

Excise Law.

additional license.....	22
annual report.....	5
application for additional license.....	11
for druggist license.....	10
for hotel license.....	6
for saloon ale and beer license.....	8
for saloon liquor license.....	7
for storekeeper's license.....	9
to sell, etc., license.....	25
bond of druggists.....	16
of hotel keeper.....	12
for saloon ale and beer license.....	14
for saloon liquor license.....	13
for storekeeper's license.....	15
druggist license.....	21
hotel license.....	17
oath of commissioners.....	1
permission to change licensed premises.....	24
to transfer license.....	26
petition to change licensed premises.....	23
record book of licenses.....	4
saloon license, ale and beer only.....	19
liquor license.....	18
storekeeper's license.....	20
undertaking of commissioners.....	2, 3

General Corporation Law.No. of
Form.

amended or supplemental certificate.....	1
form of consent.....	3
proxy to vote.....	2

Highway Law.

acceptance of overseer.....	7
account with verification and certificate of commissioners of highways..	13
affidavit for order to build bridge.....	100
affidavit of posting and service of notice.....	66
of service of notice ..	89
another assessment by overseers.....	32
appeal by non-resident.....	30
application for commissioners.....	60
for vote to change system of working highways.....	38
for ferry by owner of land..	105
for ferry by person not owning land.....	103
for private road.....	87
to alter highway.....	56, 57
to expend highway tax for sidewalk.....	34
to discontinue highway.....	58, 59
to lay out highway.....	54, 55
to lay out highway on town line ..	81
to lay water-pipes in highway.....	16
appointment of overseer of highways.....	5
assessment of persons omitted from list ..	29
assignment of certificate of anticipation.....	37
authority to expend highway tax for sidewalk ..	35
certificate for laying out private road ..	93
of anticipation.....	36
of clerk indorsed on copy license for ferry ..	107
of commissioners in favor of applicant.....	67
of commissioners denying application.....	68
of supervisor and town clerk.....	12
to county court to lay out highway through orchard.....	75
commissioners' assessment of highway labor.....	27
certificate to supervisor.....	48
list of non-resident lands.....	25, 26
refusal to build bridge.....	98
commissioners' report to first meeting of town board ..	19
report to second meeting of town board.....	20
complaint that toll-bridge is unsafe.....	14
to commissioners against overseers ..	22
consent of owner for highway through orchard.....	74
of town board.....	9
of town board to lay out or alter highway.....	51
to rebuild or repair bridge.....	96
dedication of land, etc.....	50
description of highway abandoned.....	83
laying out highway on certificate of commissioners.....	73
out highway through orchard.....	78
license for ferry.....	106
notice of appeal.....	31
of application for additional appropriation.....	8
of appointment as overseer.....	6
of meeting of commissioners.....	65
of motion.....	99
of motion to confirm decision.....	69

Highway Law — Continued.

	No. of Form.
notice of motion to vacate decision	70
of application for license for ferry.....	102
to agent of non-resident.....	40
to commissioners of adjoining towns.....	95
to commissioners of appointment.....	62
to corporation.....	39
to non-resident.....	41
to occupant to cut weeds, etc.....	46
to owner and occupant for private road.....	88
to owners of toll-bridge.....	15
to remove fallen trees.....	86
to remove fences.....	84
to remove obstruction.....	20a
to remove obstruction or encroachment.....	86
oath of commissioners.....	64
of jury.....	90
of witnesses.....	89
order appointing commissioners.....	61
ascertaining and describing road.....	2
dividing town into road districts.....	3, 4
confirming decision of commissioners.....	71
laying out or altering highway with consent of town board.....	52
laying out highway on release.....	49
of commissioners to lay out highway on town line.....	82
of commissioners for trees and sidewalk.....	33
of court to build bridge.....	101
of county court to lay out highway through orchard.....	76
of general term to lay out highway through orchard.....	77
vacating decision of commissioners.....	72
overseer's annual account.....	44, 45
list of persons liable to highway labor.....	24
report to commissioners of amount expended in cutting weeds.....	47
return to supervisor.....	42
permission to lay and maintain water-pipes in highway.....	17
petition of freeholders to commissioners of adjoining towns.....	97
proof of service of notice.....	104
release of damages by owner.....	53
request for special session of town board.....	11
road warrant.....	28
security by complaint to town.....	21, 23
statement to supervisor of expenses of bridges.....	94
subpoena by commissioners.....	63
to commissioners.....	79
summons for jury.....	91
town clerk's certificate.....	10
undertaking for ferry.....	108
of treasurer of highway commissioners.....	1
verdict for jury.....	92
verified statement of cause of action.....	18

Town Law.

abstract for board of supervisors.....	66
account for services.....	65
annual report of town indebtedness.....	72
application by taxpayers for special town meeting.....	3
for election of town auditors.....	68
to change place of annual meeting.....	1

Town Law — Continued.No. of
Form.

application to compel delivery of books.....	36
affidavit of delivery.....	29
answer of defendant.....	32
commitment.....	34
complaint to compel.....	35
order thereon.....	30
order.....	31
order to show cause.....	28
petition by claimant.....	39
receipt by successor.....	38
search warrant.....	37
warrant to commit.....	25
appointment of assessor.....	22
of collector.....	67
of firemen.....	26
of justice of peace.....	21
of supervisor.....	20
of town clerk.....	2
of third inspector of election.....	18
to fill vacancy.....	40
apportionment of division fence by owners.....	53
appraisement of damages by fence viewers.....	45
certificate of apportionment.....	9
of election of justices.....	43
of fence viewers.....	11
that justice has filed undertaking.....	61
of town board to board of supervisors.....	44
decision of fence viewers.....	59
determination by fence viewers.....	64
justice's account against county in criminal matters.....	17
notice of acceptance of resignation.....	62
of appointment to board of supervisors.....	42
of intention to inclose lands.....	41
of intention to let lands be open.....	5
of propositions to be determined by ballot.....	69
of resolution to build town house.....	57
of sale by fence viewers.....	47
of special town meeting.....	49
of strays, for town clerk.....	50
to build or repair division fence.....	49
to owner of fence viewers' meeting.....	58
to owners of strays.....	56
to person appointed.....	27
to rebuild fence destroyed by accident.....	51
to select fence viewer.....	46
oath of office.....	6
order appointing inspector of election to fill vacancy.....	19
proof that resolution passed at town meeting.....	70
resignation of town officer.....	16
resolution of supervisors directing money to be raised.....	71
statement of account and certificate by town board.....	60
subpoena by fence viewer.....	47
undertaking of collector.....	7
of commissioners of excise.....	13
of commissioner of highway.....	15
of constable.....	8
of overseer of poor.....	14

UNIVERSITY OF CALIFORNIA LIBRARY
BERKELEY

**THIS BOOK IS DUE ON THE LAST DATE
STAMPED BELOW**

Books not returned on time are subject to a fine of 50c per volume after the third day overdue, increasing to \$1.00 per volume after the sixth day. Books not in demand may be renewed if application is made before expiration of loan period.

DEC 6 1920
DEC 6 1920

17 Jan '49 SL

50m-7,'16

ack

YD 01775



